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Rules and Regulations

Title 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service and Agricultural Stabilization and Conservation Service (Marketing Agreements and Orders), Department of Agriculture

[Valencia Orange Reg. 251]

PART 922—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 922.551 Valencia Orange Regulation 251.

(a) *Findings.* (1) Pursuant to the marketing agreement and Order No. 22, as amended (7 CFR Part 922), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said marketing agreement and order, as amended, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act by tending to establish and maintain such orderly marketing conditions for such oranges as will provide, in the interests of producers and consumers, an orderly flow of the supply thereof to market throughout the normal marketing season to avoid unreasonable fluctuations in supplies and prices, and is not for the purpose of maintaining prices to farmers above the level which it is declared to be the policy of Congress to establish under the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit

information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on October 26, 1961.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a.m., P.s.t., October 29, 1961, and ending at 12:01 a.m., P.s.t., November 5, 1961, are hereby fixed as follows:

- (i) District 1: Unlimited movement;
 - (ii) District 2: 500,000 cartons;
 - (iii) District 3: Unlimited movement.
- (2) As used in this section, "handled," "handler," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said marketing agreement and order, as amended. (Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: October 27, 1961.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 61-10376; Filed, Oct. 27, 1961; 11:20 a.m.]

[Lemon Reg. 923]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 953.1030 Lemon Regulation 923.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons as hereinafter

provided will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on October 24, 1961.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period beginning at 12:01 a.m., P.s.t., October 29, 1961, and ending at 12:01 a.m., P.s.t., November 5, 1961, are hereby fixed as follows:

- (i) District 1: 4,650 cartons;
 - (ii) District 2: 102,300 cartons;
 - (iii) District 3: 79,050 cartons.
- (2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: October 26, 1961.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 61-10316; Filed, Oct. 27, 1961; 8:50 a.m.]

PART 1032—CARROTS GROWN IN SOUTH TEXAS

Limitation of Shipments

Notice of rule making with respect to proposed limitation of shipments regulation to be made effective under Marketing Agreement No. 142 and Order No. 132 (7 CFR Part 1032) regulating the handling of carrots grown in designated counties in South Texas, was published in the *FEDERAL REGISTER*, October 13, 1961 (26 F.R. 9677). This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

This notice afforded interested parties an opportunity to file data, views, or arguments pertaining thereto within 5 days after publication in the *FEDERAL REGISTER*. None was filed.

After consideration of all relevant matters presented including a proposal set forth in the aforesaid notice which was submitted for approval by the South Texas Carrot Committee, it is hereby found that the limitation of shipments regulation, as hereinafter set forth, will tend to effectuate the declared policy of the act.

It is hereby found that good cause exists for not postponing the effective date of § 1032.302 until 30 days after publication in the *FEDERAL REGISTER* (5 U.S.C. 1001-1011) in that (i) more orderly marketing in the public interest than would otherwise prevail will be promoted by regulating the handling of carrots in the manner set forth below on and after the effective date of this section, (ii) compliance with this section will not require any special preparation on the part of handlers which cannot be completed by the effective date, (iii) reasonable time is permitted under the circumstances for such preparation, and (iv) notice has been given of the limitation of shipments set forth in this section through publicity in the production area and by publication in the *FEDERAL REGISTER* of October 13, 1961, (26 F.R. 9677).

§ 1032.302 Limitation of shipments.

During the period from November 1, 1961, through June 30, 1962, no person shall handle any lot of carrots grown in the production area unless such carrots meet the grade requirements of paragraph (a) of this section and one of the size designations of paragraph (b) of this section and meet the container and pack requirements of paragraphs (c) and (d) of this section, or unless such carrots are handled in accordance with provisions of paragraphs (e), (f), and (g), of this section.

(a) *Minimum grade requirements.* U.S. No. 1, or better.

(b) *Sizing requirements.*—(1) *Small-to-medium.* $\frac{3}{4}$ inch minimum diameter to $1\frac{1}{8}$ inches maximum diameter, $5\frac{1}{2}$ inches minimum length;

(2) *Medium-to-large.* $\frac{7}{8}$ inch minimum diameter to $1\frac{1}{2}$ inches maximum diameter, $5\frac{1}{2}$ inches minimum length;

(3) *Jumbos.* 1 inch minimum diameter to 3 inches maximum diameter and 5 inches minimum length.

(c) *Container requirements.* (1) Carrots may be handled only in containers classified by weight as follows:

- (i) 1 pound;
- (ii) 2 pounds;
- (iii) 25 pounds;
- (iv) 50 pounds; and
- (v) 75-80 pounds.

(2) "Jumbos," as specified in paragraph (b) (3) of this section, may be handled only in 25, 50, and 75-80 pound containers.

(3) The container requirements of this paragraph shall not, but the pack requirements of paragraph (d) of this section shall, be applicable to carrots handled for export.

(d) *Pack requirements.* (1) Master containers for 1 pound or 2 pound packages shall contain the following number of packages only:

- (i) 24 1-pound packages;
- (ii) 48 1-pound packages; or
- (iii) 24 2-pound packages.

(2) (i) Average gross weight of master containers is to be computed by multiplying the allowable number of packages therein by their weight classification, with respective tare allowances added. Tare allowances for crates, or their equivalents in other containers, are 4 pounds for crates Nos. 4015 and 3820, and 2 pounds for crate No. 5055. (Crate designations are carrier numbers.)

(ii) Master containers of packages with the following weight classifications may not weigh more than their average gross weight, plus the following tolerances.

- (a) One-pound packages, 20 percent.
- (b) Over one-pound and including two-pound packages, 15 percent.
- (c) Over two-pound packages, 10 percent.

(iii) Containers weighing 25 pounds or more may not exceed an average of 10 percent of the net weight of contents.

(e) *Minimum quantities.* Pursuant to § 1032.52(c) (2) any person subject to these regulations may handle up to but not to exceed 100 pounds of carrots per calendar month without regard to the requirements of this section or to the inspection and assessment requirements of this part, but this exception may not apply to any portion of a shipment of over 100 pounds of carrots.

(f) *Special purpose shipments.* The requirements set forth in paragraphs (a), (b), (c), and (d) of this section, and the inspection and assessment requirements of this part, shall not be applicable to carrots handled for:

- (1) Canning or freezing;
- (2) Relief or charity;
- (3) Experimental purposes; and
- (4) Livestock feed within the production area.

(g) *Safeguards.* Each handler of carrots which do not meet the requirements of paragraphs (a), (b), (c), and (d) of this section, and which are handled under paragraph (f) of this section shall, prior to handling, apply for and obtain a Certificate of Privilege from the committee. This shall require the handler to furnish reports and documents as the committee may require showing that the carrots handled were utilized for the purpose specified in the certificate. Certificates are not required on carrots for livestock feed if (1) the carrots are mutilated to make them unfit for commercial markets or (2) the carrots are

farm packed and limited in distribution to one mile or less of loading point. Certificates are not required on carrots for canning or freezing if processed within Cameron, Starr, Willacy and Hidalgo Counties.

(h) *Inspection.* (1) No handler may handle any carrots for which inspection is required unless an appropriate inspection certificate has been issued with respect thereto and the certificate is valid at the time of shipment.

(2) No handler may transport or cause the transportation of any shipment of carrots by motor vehicle for which an inspection certificate is required unless each shipment is accompanied by a copy of the inspection certificate applicable thereto.

(3) For administration of this part each inspection certificate is valid for only 72 hours following completion of inspection as shown on the certificate.

(i) *Definitions.* The term "U.S. No. 1" shall have the same meaning as set forth in the U.S. Standards for Topped Carrots (§§ 51.2360-51.2381 of this title) including the tolerances set forth therein. The term "loading point" means a commercial facility maintained and operated by a Registered Handler as defined in § 1032.8. "Farm packed" means carrots handled by the grower on the farm where such carrots were produced. All other terms used in this section shall have the same meaning as when used in this part.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: October 25, 1961, to become effective November 1, 1961.

PAUL A. NICHOLSON,
Deputy Director,
Fruit and Vegetable Division.

[F.R. Doc. 61-10299; Filed, Oct. 27, 1961; 8:49 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter III—Federal Aviation Agency

SUBCHAPTER C—AIRCRAFT REGULATIONS

[Reg. Docket No. 937; Amdt. 354]

PART 507—AIRWORTHINESS DIRECTIVES

Sud Aviation Model SE 3130 Alouette II Helicopters

During the investigation of a recent accident involving a Model SE 3130 Alouette II helicopter, fatigue failure was found in one bolt of the tail rotor gear box housing attachment and a crack had begun in a second bolt. The failure occurred in the radius of the necked down area close to the threaded end where rough machining appears to have left tool marks. Due to the poor finish found on the bolts, the fatigue life is unpredictable. Therefore, it is necessary to issue an airworthiness directive requiring inspection of the bolts and the gear box guides.

As a situation exists which demands immediate action in the interest of

safety, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective upon publication in the FEDERAL REGISTER.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (25 F.R. 6489), § 507.10(a) of Part 507 (14 CFR Part 507), is hereby amended by adding the following new airworthiness directive:

SUB AVIATION. Applies to all Model SE 3130 Alouette II helicopters.

Compliance required as indicated.

To remove defective bolts and preclude the possibility of further failure of the tail rotor gear box housing attachment the following inspections are required:

(a) The tail rotor gear box attachment bolts P/N 66.20.043 and tail rotor gear box guides P/N 66.20.213 shall be inspected within the next 10 hours' time in service in accordance with paragraphs (d) and (e) unless this inspection has already been complied with and/or the bolts replaced with parts that comply with paragraphs (d) and (e) subsequent to August 25, 1961.

(b) Every 50 hours' time in service subsequent to the completion of inspection prescribed in paragraph (a), reinspect and check the torque of the bolts and nuts P/N 66.20.043. The torque should be between 10.1 and 12.3 ft. lbs. If the bolts and nuts do not meet the torque requirements, remove the tail rotor gear box and inspect in accordance with paragraphs (d) and (e).

(c) Every 100 hours' time in service subsequent to completing inspection of paragraph (a), remove the tail rotor gear box and inspect the bolts and guides in accordance with paragraphs (d) and (e).

(d) The bolts P/N 66.20.043 are to be checked for cracks, corrosion, peening and surface finish. Surface finish inspection is applicable to paragraph (a) only. Remove the zinc chromate protective finish, if applicable, by using paint remover. The diameter of the bolt bearing area at the head and at the thread end shall be measured in two directions 90 degrees apart in order to detect any out of round condition. These diameters shall not be less than 8.29 mm (0.326 inch). The surface finish of the central necked down area and the radius at each end shall be as follows:

(1) The radius shall not be less than 1.61 mm (0.0630 inch).

(2) The maximum permissible surface roughness shall not exceed 1 micron (39 microinches).

(3) Localized defects no greater than 50 microns deep (1950 microinches) are permissible. If these standards are not met the bolts shall be replaced with bolts that do meet the standards.

(e) Check the bore of the three tail rotor gear box guides P/N 66.20.213 by measuring the bore along two directions 90 degrees apart. The bore dimension shall not exceed 8.33 mm (0.328 inch). If these standards are not met the tail rotor gear box shall be replaced with a new or overhauled unit or the gear box returned to the factory or approved overhaul agency for installation of new guides before reinstallation on the helicopter.

(Sud Maintenance Manual Vol. I, Chapter 5, Pages 3 and 7, and Sud Service Bulletin No. 66-11-206 cover the same subject.)

This amendment shall become effective October 28, 1961.

(Sec. 313(a), 601, 603; 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on October 23, 1961.

G. S. MOORE,
Acting Director,
Flight Standards Service.

OCTOBER 23, 1961.

[F.R. Doc. 61-10268; Filed, Oct. 27, 1961; 8:45 a.m.]

SUBCHAPTER E—AIR NAVIGATION REGULATIONS

[Airspace Docket No. 60-KC-100]

PART 601—DESIGNATION OF CONTROLLED AIRSPACE, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

Modification of Amendment

On September 16, 1961, there was published in the FEDERAL REGISTER (26 F.R. 8668) an amendment to Part 601 of the regulations of the Administrator, to be effective November 1, 1961. This amendment designated a control zone at St. Charles, Ill., which was assigned § 601.2463. The assignment of this section number was in error, as § 601.2463 was previously assigned to the Lemoore, Calif., (NAS Lemoore) control zone. Therefore, the St. Charles, Ill., control zone is being assigned § 601.2493.

Since this action effects no substantive change to the rule as initially adopted, compliance with section 4 of the Administrative Procedure Act is unnecessary and the effective date of the final rule as initially adopted may be retained.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 12582), effective immediately, Airspace Docket No. 60-KC-100 is hereby modified as follows: In the text "§ 601.2463 St. Charles, Ill., control zone." is deleted and "§ 601.2493 St. Charles, Ill., control zone." is substituted therefor.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on October 23, 1961.

D. D. THOMAS,
Director,
Air Traffic Service.

[F.R. Doc 61-10269; Filed, Oct. 27, 1961; 8:45 a.m.]

[Airspace Docket No. 61-LA-88]

PART 601—DESIGNATION OF CONTROLLED AIRSPACE, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

PART 608—SPECIAL USE AIRSPACE

Modification of Continental Control Area and Restricted Area

The purpose of these amendments to §§ 601.7101 and 608.25 of the regulations of the Administrator is to change the name "Camp Irwin, Calif." to "Fort Irwin, Calif."

The Department of the Army has advised the Federal Aviation Agency that the correct name of the Army Post near Bicycle Lake, Calif., Army Airfield is Fort Irwin, Calif. Therefore, action is taken herein to reflect this change in Parts 601 and 608.

Since these amendments impose no additional burden on the public, notice and public procedure hereon are unnecessary and they may be made effective immediately.

In consideration of the foregoing, and pursuant to the authority delegated to me by the administrator (25 F.R. 12582), the following actions are taken:

1. In § 608.25 *California* (26 F.R. 7190), the following change is made: In the caption and text of R-2502 Camp Irwin, Calif., "Camp" is deleted and "Fort" is substituted therefor.

2. In the text of § 601.7101 (26 F.R. 1399, 7330) "R-2502 Camp Irwin, Calif." is deleted and "R-2502 Fort Irwin, Calif." is substituted therefor.

These amendments shall become effective upon date of publication in the FEDERAL REGISTER.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on October 24, 1961.

D. D. THOMAS,
Director,
Air Traffic Service.

[F.R. Doc. 61-10270; Filed, Oct. 27, 1961; 8:45 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 8299 c.o.]

PART 13—PROHIBITED TRADE PRACTICES

M. Lober & Associates Co. et al.

Subpart—Advertising falsely or misleadingly: § 13.15 *Business status, advantages, or connections*; § 13.15-270 *Size and extent*; § 13.15-278 *Time in business*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, M. Lober & Associates Company (New York, N.Y.) et al., Docket 8299, Sept. 6, 1961]

In the Matter of M. Lober & Associates Company, a Corporation, G. W. Davis Corporation, a Corporation, and Morris Lober, Individually and as an Officer of Both Corporations

Consent order requiring two associated distributors in New York City and Richmond, Ind., respectively, and their common officer, to cease representing falsely in advertisements in newspapers, trade journals, etc., that they were the largest and the oldest manufacturers of power lawn mowers in the United States and in the world.

The order to cease and desist is as follows:

It is ordered, That respondents M. Lober & Associates Company, G. W. Davis Corporation, corporations, and their officers, and Morris Lober, individually and as an officer of said corporations, and respondents' agents, representatives, and employees, directly or through any corporate, partnership, sole proprietorship or other device, in connection with the offering for sale, sale and distribution of power lawn mowers, or other merchandise, in commerce, as "commerce" is defined in the aforesaid Federal Trade Commission Act, do forthwith cease and desist from:

(1) Representing in any manner that respondents, or any of them, are the oldest power lawn mower manufacturers or producers in the United States or in the world.

(2) Representing in any manner that respondents, or any of them, are the largest power lawn mower manufacturers or producers in the United States or in the world, unless such is the fact.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: September 6, 1961.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 61-10274; Filed, Oct. 27, 1961;
8:46 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER D—HAZARDOUS SUBSTANCES

PART 191—HAZARDOUS SUBSTANCES; DEFINITIONS AND PROCEDURAL AND INTERPRETATIVE REGULATIONS

Imports

For the information and guidance of importers of hazardous substances, section 14 of the Federal Hazardous Substances Labeling Act provides for the issuance of procedural regulations and statements of the general course and methods by which samples of such imports will be collected, relabeling and reconditioning of inadmissible imports, and fees for the expense incurred in connection therewith. Therefore, pursuant to the provisions of the act (secs. 10(b), 14, 74 Stat. 378, 379; 15 U.S.C. 1269, 1273), Part 191 (21 CFR Part 191 (26 F.R. 7333)) is amended by adding thereto the following sections:

IMPORTS

Sec.
191.265 Imports; definitions.
191.266 Notice of sampling.
191.267 Payment for samples.

Sec.
191.268 Hearing.
191.269 Application for authorization.
191.270 Granting of authorization.
191.271 Bonds.
191.272 Costs chargeable in connection with relabeling and reconditioning inadmissible imports.

AUTHORITY: §§ 191.265 to 191.272 issued under secs. 10(b), 14, 74 Stat. 378, 379; 15 U.S.C. 1269, 1273.

IMPORTS

§ 191.265 Imports; definitions.

For the purposes of the regulations prescribed under section 14 of the act:

(a) The term "owner or consignee" means the person who has the rights of a consignee under the provisions of the Tariff Act of 1930 (secs. 483, 484, 485, 46 Stat. 721 as amended; 19 U.S.C. 1483, 1484, 1485).

(b) The term "director of district" means the director of the district of the Food and Drug Administration having jurisdiction over the port of entry through which a hazardous substance is imported or offered for import, or such officer of the district as he may designate to act in his behalf in administering and enforcing the provisions of section 14 of the act.

§ 191.266 Notice of sampling.

When a sample of a hazardous substance offered for import has been requested by the director of the district, the collector of customs having jurisdiction over the hazardous substance shall give to the owner or consignee prompt notice of delivery of, or intention to deliver, such sample. Upon receipt of the notice, the owner or consignee shall hold such hazardous substance and not distribute it until further notice from the director of district or the collector of customs of the results of examination of the sample.

§ 191.267 Payment for samples.

The Food and Drug Administration will pay for all import samples that are found to be in compliance with the requirements of the act. Billing for reimbursement should be made by the owner or consignee to the Food and Drug Administration district headquarters in whose territory the shipment was offered for import. Payment for samples will not be made if the hazardous substance is found to be in violation of the act, even though subsequently brought into compliance under the terms of an authorization to bring the article into compliance.

§ 191.268 Hearing.

(a) If it appears that the hazardous substance may be subject to refusal of admission, the director of district shall give the owner or consignee a written notice to that effect, stating the reasons therefor. The notice shall specify a place and a period of time during which the owner or consignee shall have an opportunity to introduce testimony. Upon timely request, giving reasonable grounds therefor, such time and place may be changed. Such testimony shall be confined to matters relevant to the admissibility of the hazardous substance,

and may be introduced orally or in writing.

(b) If such owner or consignee submits or indicates his intention to submit an application for authorization to relabel or perform other action to bring the hazardous substance into compliance with the act, such testimony shall include evidence in support of such application. If such application is not submitted at or prior to the hearing, the director of district shall specify a time limit, reasonable in the light of the circumstances, for filing such application.

§ 191.269 Application for authorization.

Application for authorization to relabel or perform other action to bring the hazardous substance into compliance with the act may be filed only by the owner or consignee and shall:

(a) Contain detailed proposals for bringing the article into compliance with the act.

(b) Specify the time and place where such operations will be carried out and the approximate time for their completion.

§ 191.270 Granting of authorization.

(a) When authorization contemplated by § 191.269 is granted, director of district shall notify the applicant in writing, specifying:

(1) The procedure to be followed:

(2) That the operations are to be carried out under the supervision of an officer of the Food and Drug Administration or the Bureau of Customs, as the case may be.

(3) A time limit, reasonable in the light of the circumstances, for completion of the operations; and

(4) Such other conditions as are necessary to maintain adequate supervision and control over the article.

(b) Upon receipt of a written request for extension of time to complete such operations, containing reasonable grounds therefor, the director of district may grant such additional time as he deems necessary.

(c) An authorization may be amended upon a showing of reasonable grounds therefor and the filing of an amended application for authorization with the director of district.

(d) If ownership of a hazardous substance covered by an authorization changes before the operations specified in the authorization have been completed, the original owner will be held responsible, unless the new owner has executed a bond and obtained a new authorization. Any authorization granted under this section shall supersede and nullify any previously granted authorization with respect to the article.

§ 191.271 Bonds.

(a) The bonds required under section 14(b) of the act may be executed by the owner or consignee on the appropriate form of a customs single-entry or term bond, containing a condition for the redelivery of the merchandise or any part thereof upon demand of the collector of customs and containing a provision for the performance of conditions as may legally be imposed for the relabeling or other action necessary to bring the

hazardous substance into compliance with the act in such manner as is prescribed for such bond in the customs regulations in force on the date of request for authorization. The bond shall be filed with the collector of customs.

(b) The collector of customs may cancel the liability for liquidated damages incurred under the above-mentioned provisions of such a bond, if he receives an application for relief therefrom, upon the payment of a lesser amount or upon such other terms and conditions as shall be deemed appropriate under the law and in view of the circumstances, but the collector shall not act under this regulation in any case unless the director of district is in full agreement with the action.

§ 191.272 Costs chargeable in connection with relabeling and reconditioning inadmissible imports.

The cost of supervising the relabeling or other action necessary in connection with an import of a hazardous substance that fails to comply with the act shall be paid by the owner or consignee who files an application requesting such action and executes a bond, pursuant to section 14(b) of the act. The cost of such supervision shall include, but not be restricted to, the following:

(a) Travel expenses of the supervising officer.

(b) Per diem in lieu of subsistence of the supervising officer when away from his home station, as provided by law.

(c) Services of the supervising officer, to be calculated at a flat rate of \$6.00 per hour (which will include administrative expense), except that such services performed by a customs officer and subject to the provisions of section 5 of the Act of February 13, 1911, as amended. (19 U.S.C. 267), shall be calculated as provided in that act.

(d) Services of analyst, to be calculated at a flat rate of \$7.00 per hour (which shall include the use of the chemical laboratories and equipment of the Food and Drug Administration).

(e) The minimum charge for services of supervising officers and of analysts shall be not less than the charge for 1 hour, and time after the first hour shall be computed in multiples of 1 hour, disregarding fractional parts less than 1/2-hour.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and it is so found, since the regulations serve only as a procedural guide for importers and are not restrictive in nature.

Effective date. This order shall become effective 30 days from the date of its publication in the FEDERAL REGISTER.

Dated: October 20, 1961.

[SEAL] ABRAHAM RIBICOFF,
Secretary of Health,
Education, and Welfare.
DOUGLAS DILLON,
Secretary of the Treasury.

[F.R. Doc. 61-10285; Filed, Oct. 27, 1961; 8:47 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6577]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Taxation of Amounts Received Under Family Income Riders

On April 7, 1961, notice of proposed rule making regarding amendment of the Income Tax Regulations under section 101 of the Internal Revenue Code of 1954, to provide rules for the taxation of amounts received under family income riders was published in the FEDERAL REGISTER (26 F.R. 2987). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the regulations as proposed are hereby adopted, subject to the following changes:

PARAGRAPH 1. Paragraph (h) of § 1.101-4, as set forth in paragraph 2 to the notice of proposed rule making, is revised.

PAR. 2. A new paragraph (a) to § 1.101-6 is added.

[SEAL] BERTRAND M. HARDING,
Acting Commissioner
of Internal Revenue.

Approved: October 24, 1961.

STANLEY S. SURREY,
Assistant Secretary of the
Treasury.

The Income Tax Regulations (26 CFR Part 1) under section 101 of the Internal Revenue Code of 1954 are hereby amended to prescribe rules for the taxation of amounts received under family income riders.

PARAGRAPH 1. Paragraph (a) of § 1.101-3 is amended to read as follows:

§ 1.101-3 Interest payments.

(a) **Applicability of section 101(c).** Section 101(c) provides that if any amount excluded from gross income by section 101(a) (relating to life insurance proceeds) or section 101(b) (relating to employees' death benefits) is held under an agreement to pay interest thereon, the interest payments shall be included in gross income. This provision applies to payments made (either by an insurer or by or on behalf of an employer) of interest earned on any amount so excluded from gross income which is held without substantial diminution of the principal amount during the period when such interest payments are being made or credited to the beneficiaries or estate of the insured or the employee. For example, if a monthly payment is \$100, of which \$99 represents interests and \$1 represents diminution of the principal amount, the principal amount shall be considered held under an agreement to pay interest thereon and the interest

payment shall be included in the gross income of the recipient. Section 101(c) applies whether the election to have an amount held under an agreement to pay interest thereon is made by the insured or employee or by his beneficiaries or estate, and whether or not an interest rate is explicitly stated in the agreement. Section 101(d), relating to the payment of life insurance proceeds at a date later than death, shall not apply to any amount to which section 101(c) applies. See section 101(d)(4). However, both section 101(c) and section 101(d) may apply to payments received under a single life insurance contract. For provisions relating to the application of this rule to payments received under a permanent life insurance policy with a family income rider attached, see paragraph (h) of § 1.101-4.

PAR. 2. Paragraph (h) of § 1.101-4 is amended to read as follows:

§ 1.101-4 Payment of life insurance proceeds at a date later than death.

(h) **Applicability of both section 101(c) and 101(d) to payments under a single life insurance contract—**(1) **In general.** Section 101(d) shall not apply to interest payments on any amount held by an insurer under an agreement to pay interest thereon (see sections 101(c) and 101(d)(4) and § 1.101-3). On the other hand, both section 101(c) and section 101(d) may be applicable to payments received under a single life insurance contract, if such payments consist both of interest on an amount held by an insurer under an agreement to pay interest thereon and of amounts held by the insurer and paid on a date or dates later than the death of the insured. One instance when both section 101(c) and section 101(d) may be applicable to payments received under a single life insurance contract is in the case of a permanent life insurance policy with a family income rider attached. A typical family income rider is one which provides additional term insurance coverage for a specified number of years from the register date of the basic policy. Under the policy with such a rider, if the insured dies at any time during the term period, the beneficiary is entitled to receive (i) monthly payments of a specified amount commencing as of the date of death and continuing for the balance of the term period, and (ii) a lump sum payment of the proceeds under the basic policy to be paid at the end of the term period. If the insured dies after the expiration of the term period, the beneficiary receives only the proceeds under the basic policy. If the insured dies before the expiration of the term period, part of each monthly payment received by the beneficiary during the term period consists of interest on the proceeds of the basic policy (such proceeds being retained by the insurer until the end of the term period). The remaining part consists of an installment (principal plus interest) of the proceeds of the term insurance purchased under the family income rider. The amount of

term insurance which is provided under the family income rider is, therefore, that amount which, at the date of the insured's death, will provide proceeds sufficient to fund such remaining part of each monthly payment. Since the proceeds under the basic policy are held by the insurer until the end of the term period, that portion of each monthly payment which consists of interest on such proceeds is interest on an amount held by an insurer under an agreement to pay interest thereon and is includible in gross income under section 101(c). On the other hand, since the remaining portion of each monthly payment consists of an installment payment (principal plus interest) of the proceeds of the term insurance, it is a payment of an amount held by the insurer and paid on a date later than the death of the insured to which section 101(d) and this section applies (including the \$1,000 exclusion allowed the surviving spouse under section 101(d)(1)(B)). The proceeds of the basic policy, when received in a lump sum at the end of the term period, are excludable from gross income under section 101(a).

(2) *Example of tax treatment of amounts received under a family income rider.* The following example illustrates the application of the principles contained in subparagraph (1) of this paragraph to payments received under a permanent life insurance policy with a family income rider attached:

Example. The sole life insurance policy of the insured provides for the payment of \$100,000 to the beneficiary (the insured's spouse) on his death. In addition, there is attached to the policy a family income rider which provides that, if the insured dies before the 20th anniversary of the basic policy, the beneficiary shall receive (i) monthly payments of \$1,000 commencing on the date of the insured's death and ending with the payment prior to the 20th anniversary of the basic policy, and (ii) a single payment of \$100,000 payable on the 20th anniversary of the basic policy. On the date of the insured's death, the beneficiary (surviving spouse of the insured) is entitled to 36 monthly payments of \$1,000 and to the single payment of \$100,000 on the 20th anniversary of the basic policy. The value of the proceeds of the term insurance at the date of the insured's death is \$28,409.00 (the present value of the portion of the monthly payments to which section 101(d) applies computed on the basis that the interest rate used by the insurer in determining the benefits to be paid under the contract is 2¼ percent). The amount of each monthly payment of \$1,000 which is includible in the beneficiary's gross income is determined in the following manner:

(a) Total amount of monthly payment	\$1,000.00
(b) Amount includible in gross income under section 101(c) as interest on the \$100,000 proceeds under the basic policy held by the insurer until 20th anniversary of the basic policy (computed on the basis that the interest rate used by the insurer in determining the benefits to be paid under the contract is 2¼ percent)	185.00
(c) Amount to which section 101(d) applies ((a) minus (b))	815.00

(d) Amount excludable from gross income under section 101(d) (\$28,409 ÷ 36)	\$789.14
(e) Amount includible in gross income under section 101(d) without taking into account the \$1,000 exclusion allowed the beneficiary as the surviving spouse ((c) minus (d))	25.86

The beneficiary, as the surviving spouse of the insured, is entitled to exclude the amounts otherwise includible in gross income under section 101(d) (item (e)) to the extent such amounts do not exceed \$1,000 in the taxable year of receipt. This exclusion is not applicable, however, with respect to the amount of each payment which is includible in gross income under section 101(c) (item (b)). In this example, therefore, the beneficiary must include \$185 of each monthly payment in gross income (amount includible under section 101(c)), but may exclude the \$25.86 which is otherwise includible under section 101(d). The payment of \$100,000 which is payable to the beneficiary on the 20th anniversary of the basic policy will be entirely excludable from gross income under section 101(a).

(3) *Limitation on amount considered to be an "amount held by an insurer".* See paragraph (b) (3) of this section for a limitation on the amount which shall be considered an "amount held by an insurer" in the case of proceeds of life insurance which are paid subsequent to the transfer of the policy for a valuable consideration.

(4) *Effective date.* The provisions of this paragraph are applicable only with respect to amounts received during taxable years beginning after October 20, 1961, irrespective of the date of the death of the insured.

PAR. 3. Paragraph (a) of § 1.101-6 is amended to read as follows:

§ 1.101-6 Effective date.

(a) Except as otherwise provided in paragraph (h) (4) of § 1.101-4, the provisions of section 101 of the Internal Revenue Code of 1954 and §§ 1.101-1, 1.101-2, 1.101-3, 1.101-4, and 1.101-5 are applicable only with respect to amounts received by reason of the death of an insured or an employee occurring after August 16, 1954. In the case of such amounts, these sections are applicable even though the receipt of such amounts occurred in a taxable year beginning before January 1, 1954, to which the Internal Revenue Code of 1939 applies.

(Sec. 7805, Internal Revenue Code of 1954; 68A Stat. 917; 26 U.S.C. 7805)

[F.R. Doc. 61-10287; Filed, Oct. 27, 1961; 8:47 a.m.]

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 6578]

PART 46—REGULATIONS RELATING TO MISCELLANEOUS EXCISE TAXES PAYABLE BY RETURN

Tax on Sugar

In order to conform the Regulations Relating to Miscellaneous Excise Taxes Payable by Return (26 CFR Part 46) to the appropriate sections of the Act of March 31, 1961 (Public Law 87-15, 75

Stat. 40), such regulations are amended as follows:

PARAGRAPH 1. Section 46.4501 is amended by revising section 4501(c), and the historical note, to read as follows:

§ 46.4501 Statutory provisions; imposition of tax.

SEC. 4501. *Imposition of tax* * * *

(c) *Termination of tax.* No tax shall be imposed under this subchapter on the manufacture, use, or importation of sugar or articles composed in chief value of sugar after December 31, 1962. Notwithstanding the provisions of subsections (a) or (b), no tax shall be imposed under this subchapter with respect to unsold sugar held by a manufacturer on December 31, 1962, or with respect to sugar or articles composed in chief value of sugar held in customs custody or control on such date.

[Sec. 4501 as amended by sec. 19, Act of May 29, 1956 (Public Law 545, 84th Cong., 70 Stat. 221); sec. 162(b), Excise Tax Technical Changes Act 1958 (72 Stat. 1306); sec. 2, Act of July 6, 1960 (Public Law 86-592, 74 Stat. 330); sec. 2(a), Act of March 31, 1961 (Public Law 87-15, 75 Stat. 40)]

PAR. 2. Section 46.6412(d) is amended by revising section 6412(d), and the historical note, to read as follows:

§ 46.6412(d) Statutory provisions; floor stocks refunds.

SEC. 6412. *Floor stocks refunds* * * *

(d) *Sugar.* With respect to any sugar or articles composed in chief value of sugar upon which tax imposed under section 4501(b) has been paid and which, on December 31, 1962, are held by the importer and intended for sale or other disposition, there shall be refunded (without interest) to such importer, subject to such regulations as may be prescribed by the Secretary or his delegate, an amount equal to the tax paid with respect to such sugar or articles composed in chief value of sugar, if claim for such refund is filed with the Secretary or his delegate on or before March 31, 1963.

[Sec. 6412(d) as amended by sec. 19, Act of May 29, 1956 (Public Law 545, 84th Cong., 70 Stat. 221); sec. 162(a), Excise Tax Technical Changes Act 1958 (72 Stat. 1306); sec. 2, Act of July 6, 1960 (Public Law 86-592, 74 Stat. 330); sec. 2(b), Act of March 31, 1961 (Public Law 87-15, 75 Stat. 40)]

Because this Treasury decision makes only the necessary technical changes in the statutory provisions to reflect the amendments to the Internal Revenue Code contained in the Act of March 31, 1961, it is hereby found unnecessary to issue this Treasury decision with notice and public procedure thereon under section 4(a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of section 4(c) of that Act.

(Sec. 7805, Internal Revenue Code of 1954; 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] WILLIAM H. LOEB,
Acting Commissioner
of Internal Revenue.

Approved October 24, 1961.

STANLEY S. SURREY,
Assistant Secretary of the
Treasury.

[F.R. Doc. 61-10288; Filed, Oct. 27, 1961; 8:47 a.m.]

[T.D. 6576]

SUBCHAPTER G—REGULATIONS UNDER TAX CONVENTIONS

PART 519—CANADA

Dividends Paid by Related Corporations

On March 28, 1961, a notice of proposed rule making with respect to amendments of the general regulations (Treasury Decision 5206, approved December 31, 1942) and of the withholding regulations (Treasury Decision 6047, approved November 5, 1953) under the income tax convention between the United States and Canada was published in the FEDERAL REGISTER (26 F.R. 2619). No objection to the amendments proposed having been received during the 30-day period prescribed in the notice, the amendments to Treasury Decisions 5206 and 6047 as so proposed are hereby adopted.

(68A Stat. 917; 26 U.S.C. 7805; Article XVIII, income tax convention and protocol—U.S. and Canada)

[SEAL] MORTIMER M. CAPLIN,
Commissioner of Internal Revenue.

Approved: October 24, 1961.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

PARAGRAPH 1. On December 20, 1960, an Income Tax Act Resolution was introduced in the House of Commons by the Minister of Finance of Canada with his Budget Speech providing that the rate of tax payable by a corporation not resident in Canada on dividends received from a Canadian resident, which rate of tax was limited to 5 percent in accordance with paragraph 2 of Article XI of the income tax convention between the United States and Canada of March 4, 1942, as amended by the supplementary convention signed June 12, 1950, and by the supplementary convention signed August 8, 1956, was increased to 15 percent with respect to dividends paid after December 20, 1960. As announced in Technical Information Release No. 283, issued on December 29, 1960, the Internal Revenue Service stated that paragraph 2 of Article XI of the convention was terminated, by virtue of the provisions of paragraph 3 of Article XI of the convention, effective with respect to dividends paid after December 20, 1960. As indicated in the Technical Information Release, United States income tax and withholding of United States tax at source will apply without regard to the provisions of paragraph 2 of Article XI of the convention (as amended) in the case of dividends paid after December 20, 1960. In conformity thereto, the general regulations (Treasury Decision 5206, approved December 31, 1942) and the withholding regulations (Treasury Decision 6047, approved November 5, 1953) which were issued under the income tax convention between the United States and Canada are amended as follows:

TREASURY DECISION 5206

(A) Section 519.112 (formerly 26 CFR 7.31, redesignated at 25 F.R. 14021) is

No. 209—2

amended by revising the second and third undesignated subparagraphs of paragraph (a) thereof. These amended provisions read as follows:

§ 519.112 Reduction in rate of the tax withheld at source.

(a) General. * * *

Under the provisions of Article XI, dividends paid to a Canadian corporation not engaged in trade or business within the United States and not having an office or place of business therein by a domestic subsidiary corporation are subject to tax at the rate of only 5 percent, such dividends constituting an exception to the general rule laid down in paragraph 1 of Article XI. Since paragraph 2 of Article XI of the convention (as amended) was terminated with respect to dividends paid after December 20, 1960, the rate of 5 percent prescribed therein will not apply in determining the income tax imposed upon dividends paid after such date to a Canadian corporation. For the purposes of that article, a "subsidiary corporation" is defined in paragraph 6 of the protocol as a corporation (in this case a domestic corporation) all of whose shares (less directors' qualifying shares) having full voting rights are beneficially owned by another corporation (in this case a Canadian corporation), provided that ordinarily not more than one-quarter of the gross income of such subsidiary corporation is derived from interest and dividends other than interest and dividends received from its subsidiary corporations. Thus, for example, the A Corporation is a domestic corporation all of whose shares are owned by B Company, Ltd., a Canadian corporation not engaged in trade or business within the United States and not having any office or place of business therein. The A Corporation pays a dividend to B Company, Ltd., on June 30, 1943. The A Corporation is on a calendar year basis and throughout 1940, 1941, and 1942 derived not more than 15 percent of its gross income from interest and dividends from corporations not controlled by the A Corporation. The Commissioner ascertains and has so notified the A Corporation that the corporate relationship between the A Corporation and the B Company, Ltd., has not been arranged and is not maintained primarily for the purpose of securing the lower rate of tax prescribed in paragraph 2 of Article XI of the convention. The dividend paid by the A Corporation is subject to withholding of the tax at the lower rate of 5 percent.

Any domestic corporation which claims or contemplates claiming, that dividends paid by it, or to be paid by it, are subject only to the 5 percent rate, shall file, as soon as practicable, with the Commissioner the following information: (1) The date and place of its organization; (2) the number of its outstanding shares of stock having full voting rights; (3) the person or persons beneficially owning such stock and their relationship to such corporations; (4) the amount of gross income, by years, of the paying corporation for the 3-year period immediately preceding the taxable

year in which such dividend is paid; (5) the amount of interest and dividends, by years, included in such gross income and the amount of interest and dividends, by years, received from the subsidiary corporations, if any, of such domestic corporation; and (6) the corporate relationship between such domestic corporation and the Canadian corporation to which it pays the dividend. As soon as practicable after such information is filed, the Commissioner shall examine it and determine whether the dividends concerned fall within the provisions of such paragraph and may authorize the release of excess tax withheld with respect to dividends which are shown to the satisfaction of the Commissioner to come within the provisions of paragraph 2 of Article XI of the convention. In any case in which the Commission has notified such domestic corporation that it comes within the provisions of paragraph 2 of Article XI of the convention, the reduced rate of 5 percent applies to any dividends subsequently paid by such corporation before December 21, 1960, unless its stock ownership or the character of its income materially changes. In the event of such changes occurring, such corporation shall promptly notify the Commissioner of the then existing facts with respect to such stock ownership and income.

TREASURY DECISION 6047

(B) Section 519.2 (formerly 26 CFR 7.46, redesignated at 25 F.R. 14021) is amended by adding a new subparagraph at the end of paragraph (b) thereof and by revising the first undesignated subparagraph of paragraph (d) thereof. These amended provisions read as follows:

§ 519.2 Dividends.

(b) Dividends paid by related corporation. * * *

Since Article XI(2) of the convention (as amended) was terminated with respect to dividends paid after December 20, 1960, the rate of 5 percent prescribed therein will not apply in determining the income tax imposed upon, or the amount of tax to be withheld at the source from, dividends paid after such date to a Canadian corporation.

(d) Rate of withholding. Withholding at source in the case of dividends derived from sources within the United States and paid on or after January 1, 1954, to nonresident aliens (including a nonresident alien individual, fiduciary, and partnership) and to foreign corporations, whose addresses are in Canada, shall be at the rate of 15 percent in every case except that in which, prior to the date of payment of such dividends, (1) the Commissioner of Internal Revenue has notified (i) the domestic corporation (pursuant to paragraph (b) of this section) that such dividends fall within the scope of the provisions of Article XI(2) of the convention or (ii) the withholding agent that the reduced rate of withholding shall not apply, or (2) the withholding agent has received the letter of notification prescribed in § 519.7(b).

However, see the last subparagraph of paragraph (b) of this section.

(C) Section 519.8 (formerly 26 CFR 7.52, redesignated at 25 F.R. 14021) is amended by revising paragraph (c) thereof. This amended provision reads as follows:

§ 519.8 Release of excess tax withheld at source.

(c) *Dividends paid by related corporation.* In the case of every domestic corporation receiving notification from the Commissioner of Internal Revenue under the provisions of § 519.2(b) that dividends paid or to be paid by it fall within the scope of the provisions of Article XI(2) of the convention, if United States income tax in excess of the applicable rate of 5 percent has been withheld on or after January 1, 1954, from dividends which come within the scope of such provisions, the withholding agent shall, if so authorized in such notification, release and pay over to the corporation from which it was withheld the excess tax withheld with respect to such dividends. This paragraph shall not apply with respect to dividends paid after December 20, 1960.

PAR. 2. The withholding of United States tax at the rate of 5 percent from dividends paid after December 20, 1960, and before December 30, 1960, to a Canadian corporation, which would have been entitled to the benefit of such rate in accordance with paragraph 2 of Article XI of the income tax convention between the United States and Canada of March 4, 1942, as amended, if such paragraph had been in effect during such period, shall be considered to constitute compliance with the provisions of law respecting withholding of tax at source upon such dividends. A Canadian corporation receiving such dividends upon which United States tax at the rate of only 5 percent was withheld shall, however, make a return of income in accordance with paragraph (g) of § 1.6012-2 of the Income Tax Regulations and pay the additional tax due.

[F.R. Doc. 61-10286; Filed, Oct. 27, 1961; 8:49 a.m.]

Title 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

SUBCHAPTER A—REGULATIONS

PART 608—HANDKERCHIEF, SQUARE SCARF, AND ART LINEN INDUSTRY IN PUERTO RICO

Wage Order

Pursuant to section 5 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, as amended; 29 U.S.C. 205) and paragraph (C) of proviso (1) of subsection 6(c) of the aforementioned Act as amended by the Fair Labor Standards Amendments of 1961 (sec. 5(c), Pub. Law 87-30), the Secretary of Labor by Administrative Order No. 558 (26 F.R. 7706) appointed and convened Review Committee No. 2-C,

and referred to it and duly noticed a hearing on the question of the minimum rate or rates of wages to be paid under above cited paragraph (C) of proviso (1) of subsection 6(c) of the Act in lieu of those provided under paragraph (A) of proviso (1) to employees in the handkerchief, square scarf, and art linen industry in Puerto Rico, as that industry is defined in Administrative Order No. 558.

Subsequent to an investigation and a hearing conducted pursuant to the notice, the Committee filed with the Administrator a report containing its findings of fact and recommendations with respect to the matters referred to it.

Accordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938 (52 Stat. 1064, as amended; 29 U.S.C. 208), Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp., p. 1004), section 6(c)(3) of the Fair Labor Standards Amendments of 1961 (sec. 5(c), Pub. Law 87-30), and General Order No. 45-A (15 F.R. 3290) of the Secretary of Labor, the recommendations of the Committee are hereby published in this order amending 29 CFR 608.2 (a) and (b), effective November 3, 1961, to read as follows:

§ 608.2 Wage rates.

(a) Wages at a rate of not less than 29 cents an hour shall be paid under section 6(c), Proviso (1) of the Fair Labor Standards Act of 1938, as amended, by every employer to each of his employees in the handkerchief, square scarf, and art linen industry in Puerto Rico who in any workweek is engaged in commerce or in the production of goods for commerce and who is also engaged in the hand-sewing classification of that industry, which is defined as the operations of hand-sewing as well as hand-embroidering, hand-embellishing, ornamental stitching, and similar operations involving decorative effects: *Provided, however,* That mending, repairing, sewing of labels, tacking, and similar operations on articles which are otherwise wholly machine-sewn shall not be included.

(b) Wages at a rate of not less than 55 cents an hour shall be paid under section 6(c), Proviso (1) of the Fair Labor Standards Act of 1938, as amended, by every employer to each of his employees in the handkerchief, square scarf, and art linen industry in Puerto Rico who in any workweek is engaged in commerce or in the production of goods for commerce and who is also engaged in the other operations classification of that industry, which is defined as all operations in the handkerchief, square scarf, and art linen industry in Puerto Rico, other than the operations or activities included in the other classifications of this industry.

(Sec. 8, 52 Stat. 1064, as amended; 29 U.S.C. 208)

Signed at Washington, D.C., this 23d day of October 1961.

CLARENCE T. LUNDQUIST,
Administrator.

[F.R. Doc. 61-10279; Filed, Oct. 27, 1961; 8:46 a.m.]

PART 609—WOMEN'S AND CHILDREN'S UNDERWEAR AND WOMEN'S BLOUSE AND NECKWEAR INDUSTRY IN PUERTO RICO

Wage Order

Pursuant to section 5 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, as amended; 29 U.S.C. 205) and paragraph (C) of proviso (1) of subsection 6(c) of the aforementioned Act as amended by the Fair Labor Standards Amendments of 1961 (sec. 5(c), Pub. Law 87-30), the Secretary of Labor by Administrative Order No. 558 (26 F.R. 7706) appointed and convened Review Committee No. 2-B, and referred to it and duly noticed a hearing on the question of the minimum rate or rates of wages to be paid under above cited paragraph (C) of proviso (1) of subsection 6(c) of the Act in lieu of those provided under paragraph (A) of proviso (1) to employees in the women's and children's underwear and women's blouse and neckwear industry in Puerto Rico, as that industry is defined in Administrative Order No. 558.

Subsequent to an investigation and a hearing conducted pursuant to the notice, the Committee filed with the Administrator a report containing its findings of fact and recommendations with respect to the matters referred to it.

Accordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938 (52 Stat. 1064, as amended; 29 U.S.C. 208), Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp., p. 1004), section 6(c)(3) of the Fair Labor Standards Amendments of 1961 (sec. 5(c), Pub. Law 87-30), and General Order No. 45-A (15 F.R. 3290) of the Secretary of Labor, the recommendations of the Committee are hereby published in this order amending 29 CFR 609.2 (a) and (b), effective November 3, 1961, to read as follows:

§ 609.2 Wage rates.

(a) Wages at a rate of not less than 70 cents an hour shall be paid under section 6(c), Proviso (1) of the Fair Labor Standards Act of 1938, as amended, by every employer to each of his employees in the women's and children's underwear and women's blouse and neckwear industry in Puerto Rico who in any workweek is engaged in commerce or in the production of goods for commerce and who is also engaged in the hand-sewing classification of the industry, which is defined as the operations of hand-sewing, hand-embroidering, hand-embellishing, ornamental stitching, and similar operations involving decorative effects: *Provided, however,* That mending, repairing, sewing of labels, tacking, and similar operations on articles which are wholly machine-sewn or machine-knit shall not be included.

(b) Wages at a rate of not less than 86 cents an hour shall be paid under section 6(c), Proviso (1) of the Fair Labor Standards Act of 1938, as amended, by every employer to each of his employees in the women's and children's underwear and women's blouse and neckwear industry in Puerto Rico

who in any workweek is engaged in commerce or in the production of goods for commerce and who is also engaged in the other operations classification of the industry, which is defined as all operations in the industry, other than those operations in the other classifications of this industry.

(Sec. 8, 52 Stat. 1064 as amended; 29 U.S.C. 208)

Signed at Washington, D.C., this 23d day of October 1961.

CLARENCE T. LUNDQUIST,
Administrator.

[F.R. Doc. 61-10280; Filed, Oct. 27, 1961;
8:47 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

SUBCHAPTER B—HUNTING AND POSSESSION OF WILDLIFE

PART 10—MIGRATORY BIRDS

Open Seasons, Bag Limits, and Pos- session of Certain Migratory Game Birds

Part 10 of Title 50, Code of Federal Regulations is amended as set forth below. The purpose of this amendment is to limit the closed season for Canada geese to that portion of Larimer County, Colorado, lying west of U.S. Highway 87 and north of U.S. Highway 34.

For the reasons that this amendment will serve to relieve existing restrictions imposed on the taking of Canada geese in Larimer County, Colorado and that the season for taking such species opens in the State on November 10, 1961, it would not be in the public interest to publish proposed rule making concerning this amendment or to postpone its effective date for 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 1003).

Section 10.51, 50 CFR Part 10, is hereby amended as set forth below and will become effective at the beginning of the calendar day on which this amendment is published in the FEDERAL REGISTER.

§ 10.51 Seasons and limits on waterfowl and coots, and on Wilson's snipe and lesser sandhill (little brown) cranes in Alaska.

(c) Central Flyway States.

Geese: In all States in the Flyway, the daily bag or possession limit may not include, in the alternative, more than (a) 1 white-fronted goose; (b) 1 white-fronted goose and 1 Canada goose or subspecies; or (c) 2 Canada geese or subspecies. Provided, That no open season is prescribed on snow and blue geese in all of Wyoming and in Beaverhead, Gallatin, and Madison Counties in Montana, nor on Canada geese in that portion of Larimer County, Colorado lying west of U.S. Highway 87 and north of U.S. Highway 34; and that the daily bag

limit or possession limit may not include more than 1 Canada goose or subspecies in Moffat County, Colorado.

(Sec. 3, 40 Stat. 755, as amended; 16 U.S.C. 704; E.O. 10250, 16 F.R. 5385, 3 CFR, 1949-1953 Comp., p. 757)

STEWART L. UDALL,
Secretary of the Interior.

OCTOBER 24, 1961.

[F.R. Doc. 61-10283; Filed, Oct. 27, 1961;
8:47 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Manage- ment, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 2524]

[Fairbanks 027233]

ALASKA

Partly Revoking Public Order No. 503 of July 27, 1948

By virtue of the authority vested in the President, and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

1. Public Land Order No. 503 of July 27, 1948, which reserved certain lands in Alaska for use of the Bureau of Land Management, Department of the Interior, as an administrative site, is hereby revoked so far as it affects the following described lands:

FAIRBANKS MERIDIAN

FAIRBANKS AREA

T. 1 S., R. 1 W.,

Sec. 7, Lot 5; That portion described as follows: Beginning at a point which bears—

East 0.758 chain from the SW corner of Lot 5 thence

East 2.242 chains;

North 2.70 chains, to a point on the left limit of the Chena River;

Southwesterly 2.40 chains, following the left limit of the Chena River to a point which bears North from the point of beginning;

South 1.60 chains, to the point of beginning.

Sec. 7, SE $\frac{1}{4}$ SE $\frac{1}{4}$, that part described as follows: Beginning at a point which bears—

East 0.758 chain from the NW corner of SE $\frac{1}{4}$ SE $\frac{1}{4}$ thence,

South 2.30 chains;

East 2.242 chains;

North 2.30 chains;

West 2.242 chains to the point of beginning.

The tracts described aggregate 1.03 acres.

2. The lands shall not become subject to disposal under the public land laws unless and until so provided by order of an authorized officer of the Bureau of Land Management opening the lands to such disposition.

JOHN A. CARVER, Jr.,
Assistant Secretary of the Interior.

OCTOBER 23, 1961.

[F.R. Doc. 61-10275; Filed, Oct. 27, 1961;
8:46 a.m.]

[Public Land Order 2525]

NEVADA

Revoking Stock Driveway Withdraw- als Nos. 80 and 150 (Nevada Nos. 22 and 47)

By virtue of the authority vested in the Secretary of the Interior by section 10 of the act of December 29, 1916 (39 Stat. 865; 43 U.S.C. 300) as amended, it is ordered as follows:

1. The departmental order of April 22, 1919, which was revoked in part by the departmental order of July 18, 1942, and the departmental order of September 16, 1921, reserving lands for use by the general public as stock driveways, are hereby revoked in their entirety. The following lands are released from withdrawal by this order:

[Nevada 055775]

MOUNT DIABLO MERIDIAN

Stock Driveway Withdrawal No. 80

T. 45 N., R. 45 E.,

Sec. 5, lots 1, 2, and W $\frac{1}{2}$;

Sec. 6, lot 1, S $\frac{1}{2}$ NE $\frac{1}{4}$, and SE $\frac{1}{4}$;

Sec. 7, NE $\frac{1}{4}$ and S $\frac{1}{2}$;

Sec. 8, W $\frac{1}{2}$;

Sec. 17, NW $\frac{1}{4}$;

Secs. 18, 19, 30, and 31.

T. 46 N., R. 45 E.,

Secs. 3 and 10;

Sec. 15, N $\frac{1}{2}$, SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$;

Sec. 16, E $\frac{1}{2}$;

Sec. 21, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$;

Sec. 22, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 28, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, and W $\frac{1}{2}$;

Sec. 29, NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, and SE $\frac{1}{4}$;

Sec. 32, E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, and SW $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 33, NE $\frac{1}{4}$ NW $\frac{1}{4}$, and W $\frac{1}{2}$ W $\frac{1}{2}$.

T. 47 N., R. 45 E.,

Secs. 4, 9, 16, 21, 22, 27, and 34.

The areas described aggregate 12,492.33 acres.

[Nevada 055776]

Stock Driveway Withdrawal No. 150

T. 44 N., R. 52 E.,

Sec. 19, NE $\frac{1}{4}$ NE $\frac{1}{4}$;

Sec. 20, S $\frac{1}{2}$ N $\frac{1}{2}$.

The areas described aggregate 200 acres.

2. The public lands released from withdrawal by this order are hereby restored to the operation of the public land laws subject to any valid existing rights and equitable claims; the requirements of applicable law, rules and regulations, and the provisions of any existing withdrawals.

3. The lands have been open to mineral leasing and mining location subject to the regulations in 43 CFR § 185.35-185.36.

Inquiries concerning the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Reno, Nevada.

JOHN A. CARVER, Jr.,
Assistant Secretary of the Interior.

OCTOBER 23, 1961.

[F.R. Doc. 61-10276; Filed, Oct. 27, 1961;
8:46 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Notice of Proposed Rule Making

Amendment of the income tax regulations under sections 1311, 1312, 1313, 1314, 1341, and 1347 of the Internal Revenue Code of 1954 to conform to sections 59, 60, and 61 of the Technical Amendments Act of 1958.

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: T:P. Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the *FEDERAL REGISTER*. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such a case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the *FEDERAL REGISTER*. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] MORTIMER M. CAPLIN,
Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) to section 59 (mitigation of the effect of limitations), section 60 (computation of tax where taxpayer restores substantial amount held under claim of right), and section 61 (claims against the United States involving acquisitions of property) of the Technical Amendments Act of 1958 (72 Stat. 1647, 1648), such regulations are amended as follows:

PARAGRAPH 1. Section 1.1311(b)-1 is amended by revising paragraph (a) and the material preceding the examples in paragraph (b) (1) and (2) and paragraph (c) (1) and (2). These amended provisions read as follows:

§ 1.1311(b)-1 Maintenance of an inconsistent position.

(a) *In general.* Under the circumstances stated in §§ 1.1312-1, 1.1312-2,

paragraph (a) of § 1.1312-3, §§ 1.1312-5, 1.1312-6, and 1.1312-7, the maintenance of an inconsistent position is a condition necessary for adjustment. The requirement in such circumstances is that a position maintained with respect to the taxable year of the determination and which is adopted in the determination be inconsistent with the erroneous inclusion, exclusion, omission, allowance, disallowance, recognition, or nonrecognition, as the case may be, with respect to the taxable year of the error. That is, a position successfully maintained with respect to the taxable year of the determination must be inconsistent with the treatment accorded an item which was the subject of an error in the computation of the tax for the closed taxable year. Adjustments under the circumstances stated in paragraph (b) of § 1.1312-3 and in § 1.1312-4 are made without regard to the maintenance of an inconsistent position.

(b) *Adjustments resulting in refund or credit.* (1) An adjustment under any of the circumstances stated in §§ 1.1312-1, 1.1312-5, 1.1312-6, or § 1.1312-7 which would result in the allowance of a refund or credit is authorized only if (i) the Commissioner, in connection with a determination, has maintained a position which is inconsistent with the erroneous inclusion, omission, disallowance, recognition, or nonrecognition, as the case may be, in the year of the error, and (ii) such inconsistent position is adopted in the determination.

(2) An adjustment under circumstances stated in §§ 1.1312-1, 1.1312-5, 1.1312-6, or § 1.1312-7 which would result in the allowance of a refund or credit is not authorized if the taxpayer with respect to whom the determination is made, and not the Commissioner, has maintained such inconsistent position.

(c) *Adjustments resulting in additional assessments.* (1) An adjustment under any of the circumstances stated in § 1.1312-2, paragraph (a) of § 1.1312-3, § 1.1312-5, § 1.1312-6, or § 1.1312-7 which would result in an additional assessment is authorized only if (i) the taxpayer with respect to whom the determination is made has, in connection therewith, maintained a position which is inconsistent with the erroneous exclusion, omission, allowance, recognition, or nonrecognition, as the case may be, in the year of the error, and (ii) such inconsistent position is adopted in the determination.

(2) An adjustment under the circumstances stated in § 1.1312-2, paragraph (a) of § 1.1312-3, § 1.1312-5, § 1.1312-6, or § 1.1312-7 which would result in an additional assessment is not authorized if the Commissioner, and not the tax-

payer, has maintained such inconsistent position.

PAR. 2. Section 1.1312 is amended by redesignating paragraph (6) of section 1312 as paragraph (7), inserting a new paragraph (6) immediately after paragraph (5) of section 1312, and adding a historical note at the end thereof. These amended provisions read as follows:

§ 1.1312 Statutory provisions; circumstances of adjustment.

SEC. 1312. *Circumstances of adjustment.* The circumstances under which the adjustment provided in section 1311 is authorized are as follows:

(6) *Correlative deductions and credits for certain related corporations.* The determination allows or disallows a deduction (including a credit) in computing the taxable income (or, as the case may be, net income, normal tax net income, or surtax net income) of a corporation, and a correlative deduction or credit has been erroneously allowed, omitted, or disallowed, as the case may be, in respect of a related taxpayer described in section 1313(c) (7).

(7) *Basis of property after erroneous treatment of a prior transaction—(A) General rule.* The determination determines the basis of property, and in respect of any transaction on which such basis depends, or in respect of any transaction which was erroneously treated as affecting such basis, there occurred, with respect to a taxpayer described in subparagraph (B) of this paragraph, any of the errors described in subparagraph (C) of this paragraph.

(B) *Taxpayers with respect to whom the erroneous treatment occurred.* The taxpayer with respect to whom the erroneous treatment occurred must be—

(i) The taxpayer with respect to whom the determination is made,

(ii) A taxpayer who acquired title to the property in the transaction and from whom, mediate or immediately, the taxpayer with respect to whom the determination is made derived title, or

(iii) A taxpayer who had title to the property at the time of the transaction and from whom, mediate or immediately, the taxpayer with respect to whom the determination is made derived title, if the basis of the property in the hands of the taxpayer with respect to whom the determination is made is determined under section 1015(a) (relating to the basis of property acquired by gift).

(C) *Prior erroneous treatment.* With respect to a taxpayer described in subparagraph (B) of this paragraph—

(i) There was an erroneous inclusion in, or omission from, gross income,

(ii) There was an erroneous recognition, or nonrecognition, of gain or loss, or

(iii) There was an erroneous deduction of an item properly chargeable to capital account or an erroneous charge to capital account of an item properly deductible.

[Sec. 1312 as amended by sec. 59(a), Technical Amendments Act 1958 (72 Stat. 1647)]

PAR. 3. The following new section is inserted immediately after § 1.1312-5:

§ 1.1312-6 Correlative deductions and credits for certain related corporations.

(a) Paragraph (6) of section 1312 applies if the determination allows or dis-

allows a deduction (including a credit) to a corporation, and if a correlative deduction or credit has been erroneously allowed, omitted, or disallowed in respect of a related taxpayer described in section 1313(c) (7).

(b) The application of paragraph (a) of this section may be illustrated by the following examples:

Example (1). X Corporation is a wholly-owned subsidiary of Y Corporation. In 1955, X Corporation paid \$5,000 to Y Corporation and claimed an interest deduction for this amount in its return for 1955. Y Corporation included this amount in its gross income for 1955. In 1958, the Commissioner asserted a deficiency against X Corporation for 1955, contending that the deduction for interest paid should be disallowed on the ground that the payment was in reality the payment of a dividend to Y Corporation. X Corporation contested the deficiency, and ultimately in June 1959, a final decision of the Tax Court sustained the Commissioner. Since the amount of the payment is a dividend, Y Corporation should have been allowed for 1955 the corporate dividends, received deduction under section 243 with respect to such payment. However, the Tax Court's decision sustaining the deficiency against X Corporation occurred after the expiration of the period for filing claim for refund by Y Corporation for 1955. An adjustment is authorized with respect to Y Corporation for 1955.

Example (2). Assume the same facts as in example (1) except that, instead of the Commissioner asserting a deficiency against X Corporation for 1955, Y Corporation filed a claim for refund in 1958, alleging that the payment received in 1955 from X Corporation was in reality a dividend to which the corporate dividends-received deduction (section 243) applies. The Commissioner denied the claim, and ultimately in June 1959, the district court, in a final decision, sustained Y Corporation. Since the amount of the payment is a dividend, X Corporation should not have been allowed an interest deduction for the amount paid to Y Corporation. However, the district court's decision sustaining the claim for refund occurred after the expiration of the period of limitations for assessing a deficiency against X Corporation for the year 1955. An adjustment is authorized with respect to X Corporation's tax for 1955.

PAR. 4. Section 1.1312-6 is amended by redesignating such section as § 1.1312-7 and by revising the portion of paragraph (a) which precedes subparagraph (1) to read as follows:

§ 1.1312-7 Basis of property after erroneous treatment of a prior transaction.

(a) Paragraph (7) of section 1312 applies if the determination establishes the basis of property, and there occurred one of the following types of errors in respect of a prior transaction upon which such basis depends, or in respect of a prior transaction which was erroneously treated as affecting such basis:

PAR. 5. Section 1.1312-7 is redesignated as § 1.1312-8. The title of this section, as redesignated, reads as follows:

§ 1.1312-8 Law applicable in determination of error.

PAR. 6. Section 1.1313(c)-1 is amended to read as follows:

§ 1.1313(c)-1 Related taxpayer.

An adjustment in the case of the taxpayer with respect to whom the error was

made may be authorized under section 1311 although the determination is made with respect to a different taxpayer, provided that such taxpayers stand in one of the relationships specified in section 1313(c). The concept of "related taxpayer" has application to all of the circumstances of adjustment specified in § 1.1312-1 through § 1.1312-5 if the related taxpayer is one described in section 1313(c); it has application to the circumstances of adjustment specified in § 1.1312-6 only if the related taxpayer is one described in section 1313(c) (7); it does not apply in the circumstances specified in § 1.1312-7. If such relationship exists, it is not essential that the error involve a transaction made possible only by reason of the existence of the relationship. For example, if the error with respect to which an adjustment is sought under section 1311 grew out of an assignment of rents between taxpayer A and taxpayer B, who are partners, and the determination is with respect to taxpayer A, an adjustment with respect to taxpayer B may be permissible despite the fact that the assignment had nothing to do with the business of the partnership. The relationship need not exist throughout the entire taxable year with respect to which the error was made, but only at some time during that taxable year. For example, if a taxpayer on February 15 assigns to his fiancée the net rents of a building which the taxpayer owns, and the two are married before the end of the taxable year, an adjustment may be permissible if the determination relates to such rents despite the fact that they were not husband and wife at the time of the assignment. See § 1.1311(b)-3 for the requirement in certain cases that the relationship exist at the time an inconsistent position is first maintained.

PAR. 7. Section 1.1314(c) is amended to read as follows:

§ 1.1314(c) Statutory provisions; amount and method of adjustment; adjustment unaffected by other items.

SEC. 1314. Amount and method of adjustment. * * *

(c) Adjustment unaffected by other items. The amount to be assessed and collected in the same manner as a deficiency, or to be refunded or credited in the same manner as an overpayment, under this part, shall not be diminished by any credit or set-off based upon any item other than the one which was the subject of the adjustment. The amount of the adjustment under this part, if paid, shall not be recovered by a claim or suit for refund or suit for erroneous refund based upon any item other than the one which was the subject of the adjustment. [Sec. 1314(c) as amended by sec. 59(b), Technical Amendments Act 1958 (72 Stat. 1647)]

PAR. 8. Section 1.1341 is amended to read as follows:

§ 1.1341 Statutory provisions; computation of tax where taxpayer restores substantial amount held under claim of right.

SEC. 1341. Computation of tax where taxpayer restores substantial amount held under claim of right—(a) General rule. If—

(1) An item was included in gross income for a prior taxable year (or years) because it appeared that the taxpayer had an unrestricted right to such item;

(2) A deduction is allowable for the taxable year because it was established after the close of such prior taxable year (or years) that the taxpayer did not have an unrestricted right to such item or to a portion of such item; and

(3) The amount of such deduction exceeds \$3,000, then the tax imposed by this chapter for the taxable year shall be the lesser of the following:

(4) The tax for the taxable year computed with such deduction; or

(5) An amount equal to—

(A) The tax for the taxable year computed without such deduction, minus

(B) The decrease in tax under this chapter (or the corresponding provisions of prior revenue laws) for the prior taxable year (or years) which would result solely from the exclusion of such item (or portion thereof) from gross income for such prior taxable year (or years).

For purposes of paragraph (5) (B), the corresponding provisions of the Internal Revenue Code of 1939 shall be chapter 1 of such code (other than subchapter E, relating to self-employment income) and subchapter E of chapter 2 of such code.

(b) Special rules. (1) If the decrease in tax ascertained under subsection (a) (5) (B) exceeds the tax imposed by this chapter for the taxable year (computed without the deduction) such excess shall be considered to be a payment of tax on the last day prescribed by law for the payment of tax for the taxable year, and shall be refunded or credited in the same manner as if it were an overpayment for such taxable year.

(2) Subsection (a) does not apply to any deduction allowable with respect to an item which was included in gross income by reason of the sale or other disposition of stock in trade of the taxpayer (or other property of a kind which would properly have been included in the inventory of the taxpayer if on hand at the close of the prior taxable year) or property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business. This paragraph shall not apply if the deduction arises out of refunds or repayments with respect to rates made by a regulated public utility (as defined in section 1503(c) without regard to paragraph (2) thereof) if such refunds or repayments are required to be made by the Government, political subdivision, agency, or instrumentality referred to in such section, or by an order of a court, or are made in settlement of litigation or under threat or imminence of litigation. This paragraph shall not apply if the deduction arises out of payments or repayments made pursuant to a price redetermination provision in a subcontract entered into before January 1, 1958, between persons other than those bearing the relationship set forth in section 267(b), if the subcontract containing the price redetermination provision is subject to statutory renegotiation and section 1481 (relating to mitigation of effect of renegotiation of Government contracts) does not apply to such payment or repayment solely because such payment or repayment is not paid or repaid to the United States or any agency thereof.

(3) If the tax imposed by this chapter for the taxable year is the amount determined under subsection (a) (5), then the deduction referred to in subsection (a) (2) shall not be taken into account for any purpose of this subtitle other than this section.

[Sec. 1341 as amended by sec. 60, Technical Amendments Act 1958 (72 Stat. 1647)]

PAR. 9. Section 1.1341-1 is amended by revising paragraph (b) (1) (ii), revising subparagraphs (1) and (2) and adding a new subparagraph (3) to paragraph (f), and revising paragraph (i).

These amended provisions read as follows:

§ 1.1341-1 Restoration of amounts received or accrued under claim of right.

(b) *Determination of tax.* (1) * * *

(ii) The tax for the taxable year computed under section 1341(a)(5), that is, without taking such deduction into account, minus the decrease in tax (under chapter 1 of the Internal Revenue Code of 1954, under chapter 1 (other than subchapter E) and subchapter E of chapter 2 of the Internal Revenue Code of 1939, or under the corresponding provisions of prior revenue laws) for the prior taxable year (or years) which would result solely from the exclusion from gross income of all or that portion of the income included under a claim of right to which the deduction is attributable. For the purpose of this subdivision, the amount of the decrease in tax is not limited to the amount of the tax for the taxable year. See paragraph (1) of this section where the decrease in tax for the prior taxable year (or years) exceeds the tax for the taxable year.

(f) *Inventory items, stock in trade, and property held primarily for sale in the ordinary course of trade or business.*

(1) Except for amounts specified in subparagraphs (2) and (3) of this paragraph, the provisions of section 1341 and this section do not apply to deductions attributable to items which were included in gross income by reason of the sale or other disposition of stock in trade of the taxpayer (or other property of a kind which would properly have been included in the inventory of the taxpayer if on hand at the close of the prior taxable year) or property held by the taxpayer primarily for sale to customers in the ordinary course of the taxpayer's trade or business. This section is, therefore, not applicable to sales returns and allowances and similar items.

(2) (i) In the case of taxable years beginning after December 31, 1957, the provisions of section 1341 and this section apply to deductions which arise out of refunds or repayments with respect to rates made by a regulated public utility, as defined in section 1503(c)(1) or (3) and paragraph (g) of § 1.1502-2, if such refunds or repayments are required to be made by the Government, political subdivision, agency, or instrumentality referred to in such section, or are required to be made by an order of a court, or are made in settlement of litigation or under threat or imminence of litigation. Thus, deductions attributable to refunds of charges for the sale of natural gas under rates approved temporarily by a proper governmental authority are, in the case of taxable years beginning after December 31, 1957, eligible for the benefits of section 1341 and this section, if such refunds are required by the governmental authority, or by an order of a court, or are made in settlement of litigation or under threat or imminence of litigation.

(ii) In the case of taxable years beginning before January 1, 1958, the pro-

visions of section 1341 and this section apply to deductions which arise out of refunds or repayments (whether or not with respect to rates) made by a regulated public utility, as defined in section 1503(c)(1) or (3) and paragraph (g) of § 1.1502-2, if such refunds or repayments are required to be made by the Government, political subdivision, agency, or instrumentality referred to in such section. Thus, in the case of taxable years beginning before January 1, 1958, deductions attributable to refunds or repayments may be eligible for the benefits of section 1341 and this section, even though such refunds or repayments are not with respect to rates. On the other hand, in the case of such taxable years, section 1341 and this section do not apply to any deduction which arises out of a refund or repayment (whether or not with respect to rates) which is required to be made by an order of a court, or which is made in settlement of litigation or under threat or imminence of litigation.

(3) The provisions of section 1341 and this section apply to a deduction which arises out of a payment or repayment made pursuant to a price redetermination provision in a subcontract—

(i) If such subcontract was entered into before January 1, 1958, between persons other than those bearing a relationship set forth in section 267(b);

(ii) If such subcontract is subject to statutory renegotiation; and

(iii) If section 1481 (relating to mitigation of effect of renegotiation of Government contracts) does not apply to such payment or repayment solely because such payment or repayment is not paid or repaid to the United States or any agency thereof.

Thus, a taxpayer who enters into a subcontract to furnish items to a prime contractor with the United States may, pursuant to a price redetermination provision in the subcontract, be required to refund an amount to the prime contractor or to another subcontractor. Since the refund would be made directly to the prime contractor or to another subcontractor, and not directly to the United States, the taxpayer would be unable to avail himself of the benefits of section 1481. However, the provisions of section 1341 and this section will apply in such a case, if the conditions set forth in subdivisions (i), (ii), and (iii) of this subparagraph are met. For provisions relating to the mitigation of the effect of a redetermination of price with respect to subcontracts entered into after December 31, 1957, when repayment is made to a party other than the United States or any agency thereof, see section 1482.

(i) *Refunds.* If the decrease in tax for the prior taxable year (or years) determined under section 1341(a)(5)(B) and paragraph (b)(1)(ii) of this section exceeds the tax imposed by chapter 1 of the Code for the taxable year computed without the deduction, the excess shall be considered to be a payment of tax for the taxable year of the deduction. Such payment is deemed

to have been made on the last day prescribed by law for the payment of tax for the taxable year and shall be refunded or credited in the same manner as if it were an overpayment of tax for such taxable year. However, no interest shall be allowed or paid if such an excess results from the application of section 1341(a)(5)(B) in the case of a deduction described in paragraph (f)(3) of this section (relating to payments or repayments pursuant to price redetermination).

PAR. 10. Section 1.1347 is amended to read as follows:

§ 1.1347 Statutory provisions; claims against United States involving acquisition of property.

SEC. 1347. *Claims against United States involving acquisition of property.* In the case of amounts (other than interest) received by a taxpayer from the United States with respect to a claim against the United States involving the acquisition of property and remaining unpaid for more than 15 years, the surtax imposed by section 1 attributable to such receipt shall not exceed 30 percent of the amount (other than interest) so received. This section shall apply only if claim was filed with the United States before January 1, 1958.

[Sec. 1347 as amended by sec. 61, Technical Amendments Act 1958 (72 Stat. 1648)]

PAR. 11. Paragraphs (a) and (b) of § 1.1347-1 are amended to read as follows:

§ 1.1347-1 Tax on certain amounts received from the United States.

(a) In the case of an amount (other than interest) received from the United States by an individual under a claim involving acquisition of property and remaining unpaid for more than 15 years, the surtax (or, in the case of taxable years beginning before January 1, 1958, the tax) imposed by section 1 attributable to such amount shall not exceed 30 percent of the amount (other than interest) so received. For the purpose of section 1347 and this section, such amount shall not include any amount received from the United States which constitutes interest, whether such interest was included in the claim or in any judgment thereon or has accrued on such judgment. Section 1347 and this section shall only apply with respect to amounts received under a claim filed with the United States before January 1, 1958.

(b) To determine the application of section 1347 and this section to a particular amount, the taxpayer shall first compute the surtax (or, in the case of taxable years beginning before January 1, 1958, the tax) imposed by section 1 upon his entire taxable income, including the amount specified in paragraph (a) of this section, without regard to the limitation on tax provided in section 1347. The proportion of the surtax (or tax), so computed, indicated by the ratio which the taxpayer's taxable income attributable to the amount specified in paragraph (a) of this section, computed as prescribed in paragraph (c) of this section, bears to his total taxable income, is the portion of the surtax (or tax) attributable to such amount. If this portion of the surtax (or tax) exceeds 30 percent of the amount speci-

fied in paragraph (a) of this section, that portion of the surtax (or tax) shall be reduced to 30 percent of such amount.

[F.R. Doc. 61-10296; Filed, Oct. 27, 1961; 8:48 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 989]

HANDLING OF RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Proposed Approval of Expenses of Raisin Administrative Committee for 1961-62 Crop Year and Rate of Assessment for Such Crop Year

Consideration is being given to a proposal to approve the expenses of the Raisin Administrative Committee for the 1961-62 crop year and fix the rate of assessment for that crop year as authorized by §§ 989.79 and 989.80 of Marketing Agreement No. 109, as amended, and Order No. 89, as amended (7 CFR Part 989), regulating the handling of raisins produced from grapes grown in California. This marketing order program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The committee has unanimously recommended, for the 1961-62 crop year beginning September 1, 1961, a budget of expenses in the total amount of \$107,100 and an assessment rate of 70 cents per ton of assessable tonnage raisins, that is, free tonnage raisins acquired by handlers and any reserve tonnage raisins sold to them by the committee pursuant to § 989.67. The assessable tonnage is estimated at 153,000 tons.

Consideration will be given to any written data, views, or arguments pertaining to the proposal which are received by the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C., not later than the eighth day after the date of publication of this notice in the FEDERAL REGISTER.

The proposal is as follows:

§ 989.312 Expenses of the Raisin Administrative Committee and rate of assessment for the 1961-62 crop year.

(a) *Expenses.* Expenses (other than those specified in § 989.82) in the amount of \$107,100 are reasonable and likely to be incurred by the Raisin Administrative Committee for the maintenance and functioning of the committee and the Raisin Advisory Board during the crop year beginning September 1, 1961.

(b) *Rate of assessment.* The rate of assessment for the crop year beginning September 1, 1961, which each handler shall pay pursuant to § 989.80 is fixed at 70 cents per ton for free tonnage raisins acquired by him during the crop year and for reserve tonnage raisins sold to

him by the committee pursuant to § 989.67 during the crop year.

Dated: October 25, 1961.

PAUL A. NICHOLSON,
Deputy Director,
Fruit and Vegetable Division.

[F.R. Doc. 61-10298; Filed, Oct. 27, 1961; 8:49 a.m.]

Agricultural Stabilization and Conservation Service

[7 CFR Part 908]

[Docket No. AO-243-A6]

MILK IN CENTRAL ARKANSAS MARKETING AREA

Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held at the Hotel Grady-Manning, Main and Markham Streets, Little Rock, Arkansas, beginning at 10:00 a.m., local time, on November 15, 1961, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Central Arkansas marketing area.

The public hearing is for the purpose of receiving evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

Proposed by the Central Arkansas Milk Producers Association:

Proposal No. 1. Amend § 908.4 to include the counties of Phillips, Lee, St. Francis, Cross, Poinsett, Craighead, Greene, Lawrence, Independence, Jackson, Woodruff, Prairie, and Mississippi, all in the State of Arkansas, within the marketing area, in addition to the area now included.

Proposed by the Clark County Dairy Products Company:

Proposal No. 2. Amend § 908.4 to delete that portion in parentheses "except the city of Gurdon and the town of Okolona."

Proposed by the Central Arkansas Milk Producers Association:

Proposal No. 3. Delete § 908.6, and substitute therefor:

§ 908.6 Producer.

"Producer" means any person other than a producer-handler who produces milk which is approved as Grade A and which is received during the month at a pool plant: *Provided*, That if such milk is diverted from a pool plant by a handler to a nonpool plant for his account any day during the months of February through August, or on not more than ten days during any other month, the milk

so diverted shall be deemed to have been received at a pool plant at the location of the plant from which diverted.

Proposal No. 4. Delete § 908.9, and substitute therefor:

§ 908.9 Supply plant.

"Supply plant" means:

(a) An approved plant from which fluid milk products equal to not less than 50 percent of its receipts of producer milk during the month are shipped during such month to distributing plants: *Provided*, That any such plant which qualifies as a supply plant for each of the months during the period August through January shall, upon written application to the market administrator, on or before the end of such period, be designated as a supply plant for the following months of February through July; or

(b) At the option of the cooperative association an approved plant at which milk is received directly from the farms of dairy farmers holding permits or authorizations issued by municipal health authorities having jurisdiction in the marketing area, and which is operated by a cooperative association having member producers which delivers 25 percent or more of its member milk to the pool plants of other handlers.

Proposal No. 5. Delete § 908.10, and substitute therefor:

§ 908.10 Pool plant.

"Pool plant" means:

(a) A distributing plant, or a supply plant, except a plant of a producer handler, or

(b) Any milk plant which is approved by any health authority having jurisdiction in the marketing area at which milk is received directly from the farms of dairy farmers holding permits or authorizations issued by a municipal health authority having jurisdiction in the marketing area, and which is operated by a cooperative association having member producers 25 percent or more of whose milk is received at the pool plants of other handlers.

Proposal No. 6. Amend § 908.11, by changing the period appearing at the end of the definition to a comma, and inserting the following: "or a supply plant as defined in § 908.9(b), which does not elect to report as the operator of a pool plant."

Proposal No. 7. Amend § 908.12, by adding a new paragraph (c) to read as follows:

(c) A cooperative association which owns or operates a plant described in § 908.10(b) with respect to the milk of its member producers which is delivered to the pool plant of another handler in a tank truck owned or operated by such association for the account of such cooperative association (such milk shall be considered as having been received by such cooperative association at the plant to which it is delivered).

Proposal No. 8. Amend § 908.30, by changing that portion of the paragraph preceding paragraph (a) to read as follows:

§ 908.30 Reports of sources and utilization.

By mailing on or before the 7th day after the end of each month, or by delivery not later than the 8th day after the end of such month, each handler (except a producer-handler) for each of his approved plants shall report for such month to the market administrator in the detail and on the forms prescribed by the market administrator as follows:

Proposal No. 9. Amend §§ 908.41(b) and 908.45, to provide for a proration of the 2 percent allowable shrinkage, with a .5 percent being allowed a cooperative association and a 2.5 percent being allowed a handler if settlement is not made upon the basis of farm tank calibration rates and butterfat samples taken from each producer's farm bulk cooling tank.

Proposed by Dean Milk Company:

Proposal No. 10. Amend § 908.44 to provide that accounting for nonfat milk solids be done on an actual weight basis and make such necessary conforming changes in other sections so that such accounting will be done on an actual weight basis. This accounting should apply to products using solids for fortification purposes and not when used for reconstituting.

Proposed by Coleman Dairy, Inc.:

Proposal No. 11. Amend any appropriate provisions of Federal Order No. 8 which will result in a Class II classification for that portion of total weight added to Class I products brought about through the necessity of skim equivalent accounting in the fortification of Class I products.

Proposed by Coleman Dairy, Inc., and the Borden Company:

Proposal No. 12. In the event that any currently pending recommended decision from the Department of Agriculture should result in a Class I price under Federal Order No. 18 (Memphis) any more or any less than the Class I price under Federal Order No. 8 (Central Arkansas), we then propose that the Class I prices for these two markets be identical.

Proposed by Central Arkansas Milk Producers Association:

Proposal No. 13. Amend § 908.51(b) to provide for the use of the United States average manufacturing milk price as the basis for computing the Class II price for milk during all months of the year.

Proposal No. 14. Amend § 908.53 by changing the period at the end of this section to a colon, and adding the following language: "Provided, That the provisions of this section shall not apply to any pool plant located within the marketing area."

Proposal No. 15. Add a new § 908.55 reading as follows:

§ 908.55 Use of equivalent prices.

If for any reason a price quotation required by this order for computing the class prices, or for other purposes, is not available in the manner so described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

Proposal No. 16. Amend § 908.74, by changing the period at the end of this section to a colon, and adding the following language: "Provided, That the provisions of this section shall not apply to any pool plant located within the marketing area."

Proposed by the Milk Marketing Orders Division, Agricultural Stabilization and Conservation Service:

Proposal No. 17. Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, Charles S. McDonald, P.O. Box 4225, Asher Avenue Station, Little Rock, Arkansas, or from the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington 25, D.C., or may be there inspected.

Signed at Washington, D.C., on October 25, 1961.

ROBERT G. LEWIS,
Deputy Administrator, Price
and Production, Agricultural
Stabilization and Conserva-
tion Service.

[F.R. Doc. 61-10300; Filed, Oct. 27, 1961;
8:50 a.m.]

CIVIL AERONAUTICS BOARD

[14 CFR Part 302]

[Procedural Reg. Docket No. 13130]

RULES OF PRACTICE IN ECONOMIC PROCEEDINGS**Proposed Procedure for Fixing Temporary Mail Rates**

OCTOBER 24, 1961.

Notice is hereby given that the Civil Aeronautics Board has under consideration a proposed amendment to Subpart C of Part 302 of the Procedural Regulations setting forth special rules applicable to mail rate proceedings. Under this proposed amendment, the procedure for fixing temporary mail rates delineated in § 302.310(b) would be modified (1) to eliminate the mandatory hearing requirement in subsidy cases, (2) to eliminate the mandatory tentative decision, (3) to establish a maximum time limit for the setting down of the prehearing conference and hearing, (4) to provide that pendency of motions or petitions shall not be a ground for deferring procedural dates in subsidy cases, and (5) to prohibit the filing of petitions for reconsideration of the final order in cases where a tentative decision has been issued. The principal features of the proposed amendment are discussed in the Explanatory Statement below and the proposed amendment is set forth below.

This amendment is proposed under the authority of sections 204(a) and 1001 of the Federal Aviation Act (72 Stat. 743, 788; 49 U.S.C. 1324, 1481).

Interested persons may participate in the proposed rule making through sub-

mission of ten (10) copies of written data, views or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington 25, D.C. All relevant matter in communications received on or before November 27, 1961 will be considered by the Board before taking final action on the proposed rules. Upon receipt by the Board, copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

Explanatory statement. The Board has reviewed its procedural rules (14 CFR 302.310) pertaining to the fixing of temporary mail rates and, in the light of such review, proposes various amendments designed to permit more expeditious processing of temporary mail rate cases.

The amendments proposed herein will accomplish the following:

- (1) Eliminate the mandatory hearing requirement in subsidy cases;
- (2) Eliminate the mandatory tentative decisions;
- (3) Establish a maximum time limit for the setting down of the prehearing conference and hearing;
- (4) Provide that pendency of motions shall not be a ground for deferring procedural dates in subsidy cases; and
- (5) Prohibit the filing of petitions for reconsideration of the final order in cases where a tentative decision has been issued.

Under the presently effective § 302.310, every contested temporary rate case is required to be set down for an evidentiary hearing before an Examiner. The Board is of the view that a temporary mail rate case does not generally require an evidentiary hearing for two reasons:

(1) The issues in such cases are narrow. Under the Board's temporary mail rate policy, carriers are ordinarily entitled to their actual break-even need plus interest, except where overpayment appears likely to result. Insofar as a past period is concerned, the break-even need and interest can be derived from the carrier's Form 41 Reports and is rarely, if ever, a matter in dispute. When future rates are involved, there is, of course, a possibility of a factual dispute as to the forecast of revenues and expenses. But such disputes are not apt to be serious ones and do not always involve large sums of money. Thus, in both past and future cases the issues which complicate final mail rate determinations, i.e., issues related to the economy and efficiency of management and to accounting adjustments, are frequently not present. In sum, a temporary rate proceeding may be relatively simple substantively and possesses few, if any, factual issues that must be resolved.

(2) The temporary rate proceeding does not finally resolve the issue of mail compensation to the carrier. The Board always retains jurisdiction to establish

a final rate which may be greater or less than the temporary rate, for the period beginning with the institution of the rate proceeding. Thus, no rights of the carrier are finally determined in the temporary rate case and the Board decision therein is purely interlocutory in nature.

Accordingly, the Board believes that fair treatment does not ordinarily require an evidentiary hearing in a temporary subsidy rate proceeding. This, of course, is not to say that there may not be situations where an evidentiary hearing, or at least an oral argument, should be afforded, as for example where a major issue of fact is presented. Such a case might be one in which the show cause order proposes sizeable and controversial adjustments to the carrier's Form 41 Reports. If such factual issues are combined with a *prima facie* showing of substantial financial impact resulting from the proposed temporary rate reduction, the Board may, as a matter of discretion, hold an evidentiary hearing.

Section 302.310(b)(3) now provides that following the evidentiary hearing the Examiner shall immediately certify the record to the Board for tentative decision. No briefs are permitted to be filed, except upon the Board's request. The Board proposes herein to delete the rule requiring a mandatory tentative decision, and to permit the filing of briefs in all cases. Under section 8(a) of the Administrative Procedure Act a tentative decision in rate cases may be omitted "in any case in which the agency finds upon the record that due and timely execution of its functions imperatively and unavoidably so requires." In view of the urgency of temporary mail rate proceedings this finding can be made in the typical case, and a tentative decision legally dispensed with. Moreover, omission of the tentative decision would result in the saving of one step in the process and to that extent would relieve the Board of an unnecessary burden, and aid in expediting the case.

In this connection, a provision has been added in the proposed § 302.310(b)(4)(iii) providing that carriers in their briefs should state their reasons why the Board should or should not issue a tentative decision.

The past experience of the Board in the processing of temporary mail rate cases indicates the danger of delays in settling down prehearing conferences and hearings. The Board believes that it would be helpful if the rules contain maximum time periods within which conferences and hearings must be held or commence and proposes that the prehearing conference must be held not later than the eighth day following the issuance of the order setting the case down for hearing and that the hearing must be held not later than the fifteenth day following the prehearing conference. The rule also provides that the Examiner is given discretion to defer these dates upon a convincing showing of exceptional circumstances.

Experience has also shown that temporary subsidy mail rate proceedings are subject to unwarranted delays resulting from the deferral of procedural dates

pending decision on interlocutory motions. Such motions include motions to dismiss the proceeding, petitions for reconsideration of the show cause order, etc. The Board herein proposes a firm rule that the pendency of motions shall not be a ground for deferring procedural dates.

In those cases where a tentative decision is issued, there appears to be no sound reason for permitting petitions for reconsideration of the Board's final order and accordingly a rule is proposed which will prohibit the filing of such petitions. However, in those cases where a tentative decision is not issued, petitions for reconsideration would be permitted. Such a procedure will enable the parties to direct the Board's attention to any claimed errors or omissions in the final decision, without delaying the effectiveness of the order establishing the revised temporary rate.

Proposed rule. It is proposed to amend § 302.310(b) of Part 302 of the Board's Procedural Regulations (14 CFR Part 302) to read:

(b) The procedure for determining temporary mail rates shall be the same as that applicable to the determination of final mail rates except that:

(1) Notice of objections to a show cause order of the Board proposing temporary mail rates shall be filed by any party or petitioner for intervention within eight days, and an answer within fifteen days, of the time such order is served.

(2) Failure to file notice of objection or answer within the periods specified above shall be deemed to be a waiver of all further procedural steps before final decision, including hearing and a tentative decision, and the proceeding will stand submitted to the Board for final decision.

(3) After the filing of answers in cases solely involving establishment of subsidy rates to be paid by the Board, the Board may in its discretion (i) issue a final order establishing temporary mail rates at the same level as that proposed in the show cause order, or a different level, (ii) set the matter down for an evidentiary hearing before the Examiner, or (iii) notice the matter for oral argument before the Board. Neither oral argument nor an evidentiary hearing will be granted except upon a showing, set forth in the answer, that the case presents major issues of fact or policy which cannot fairly be resolved on the basis of written documents. In the case of requests for evidentiary hearing, the answer shall set forth in detail the nature of the evidence which the party requesting hearing would submit if hearing were granted.

(4) The following procedure shall be applicable in the event that the matter is set down for evidentiary hearing pursuant to subparagraph (3) of this paragraph and in service mail rate cases where answer is filed:

(i) Unless the Board's order setting the case for hearing provides otherwise, or unless prehearing conference is waived by all the parties, a prehearing conference shall be held no later than

the eighth day following the date of service of such order.

(ii) In the absence of a convincing showing of exceptional circumstances necessitating postponement, the hearing shall commence no later than the fifteenth day after the date of the prehearing conference.

(iii) (a) Upon the conclusion of the hearing, the Examiner shall immediately certify the entire record to the Board. Proposed findings and conclusions and supporting briefs with reasons why the Board should or should not issue a tentative decision shall be filed with the Board within ten days of the date of the conclusion of the hearing.

(b) The Board may thereupon issue a tentative decision or, upon a finding made upon the record that due and timely execution of its functions imperatively and unavoidably requires omission of the tentative decision, may issue its final decision establishing temporary mail rates.

(iv) In the event that the Board issues a tentative decision, the parties may not file separate exceptions and briefs, but may file in lieu thereof exceptions and briefs in support thereof in one document. Such documents shall be filed within 10 days of service of the tentative decision, shall not exceed 25 pages and shall comply with the specifications of § 302.31(b). If no such documents are filed within the prescribed time, the tentative decision shall, without further proceedings, become the final decision of the Board. If such documents are duly filed, no further pleadings will be permitted and the proceeding shall stand submitted to the Board for final decision. The Board will not entertain petitions for reconsideration of any final order in any case where it has issued a tentative decision.

(5) The pendency of any motion or petition in a temporary subsidy mail rate proceeding shall not be grounds for deferring procedural dates.

[F.R. Doc. 61-10294; Filed, Oct. 27, 1961; 8:48 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 602]

[Airspace Docket No. 61-WA-189]

JET ADVISORY AREAS

Proposed Alteration

Pursuant to the authority delegated to me by the Administrator (14 CFR 409.13), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 602.200 of the regulations of the Administrator, the substance of which is stated below.

Radar jet advisory area presently extends within 16 miles either side of Jet Route No. 2 from flight level 240 to flight level 390 inclusive between El Paso, Texas, and Tallahassee, Fla. The FAA has under consideration the designation of radar jet advisory area from the Mission Bay, Calif., VOR to the El Paso, Texas, VORTAC 16 miles either side of J-2 at the same flight levels. The radar

jet advisory area proposed herein would provide a defined area along this route wherein jet advisory service would be provided to civil turbojet aircraft.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. All communications received within forty-five days after publication of this notice in the *FEDERAL REGISTER* will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Chief, Airspace Utilization Division. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room C-226, 1711 New York Avenue NW., Washington 25, D.C.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on October 23, 1961.

H. B. HELSTROM,
Acting Chief,
Airspace Utilization Division.

[F.R. Doc. 61-10271; Filed, Oct. 27, 1961;
8:45 a.m.]

[14 CFR Part 602]

[Airspace Docket No. 61-WA-135]

JET ADVISORY AREAS

Proposed Designation

Pursuant to the authority delegated to me by the Administrator (14 CFR 409.13), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 602.300 of the regulations of the Administrator, the substance of which is stated below.

The Federal Aviation Agency has under consideration the designation of a terminal radar jet advisory area at Nashville, Tenn. The presently designated en route radar jet advisory areas which overlie the Nashville terminal area are not of sufficient size to provide optimum flexibility for the transition of civil turbojet aircraft to and from the jet route system while arriving and departing the Nashville terminal area. Accordingly, it is proposed to designate the Nashville, Tenn., terminal radar jet advisory area from flight level 240 to flight level 390 inclusive within 16 miles either side of the following VOR/VORTAC radials:

a. Nashville, Tenn., VORTAC via the intersection of the Nashville VORTAC 044° and the London, Ky., VORTAC 260° True radials: Thence via the London VORTAC 260° True radial to its intersection with Jet Route No. 42.

b. Nashville, Tenn., VORTAC via the intersection of the Nashville VORTAC 079° and the London, Ky., VORTAC 230° True radials to the London VORTAC; thence via the London VORTAC 040° True radial to its intersection with Jet Route No. 42.

c. Nashville, Tenn., VORTAC via the intersection of the Nashville VORTAC 284° and the Jacks Creek, Tenn., VOR 044° True radials to the Jacks Creek VOR; thence via the Jacks Creek VOR 224° True radial to its intersection with Jet Route No. 42.

d. Nashville, Tenn., VORTAC via the intersection of the Nashville VORTAC 223° and the Memphis, Tenn., VORTAC 081° True radials to the Memphis VORTAC.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. All communications received within forty-five days after publication of this notice in the *FEDERAL REGISTER* will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Chief, Airspace Utilization Division. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room C-226, 1711 New York Avenue NW., Washington 25, D.C.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on October 23, 1961.

H. B. HELSTROM,
Acting Chief,
Airspace Utilization Division.

[F.R. Doc. 61-10272; Filed, Oct. 27, 1961;
8:45 a.m.]

[14 CFR Parts 600, 601, 608]

[Airspace Docket No. 60-AN-18]

FEDERAL AIRWAYS, ASSOCIATED CONTROL AREAS AND REPORTING POINTS, AND RESTRICTED AREA

Proposed Alteration

Pursuant to the authority delegated to me by the Administrator (14 CFR 409.13), notice is hereby given that the Federal Aviation Agency is considering amendments to §§ 600.18, 600.282, 601.282, 601.4018, 601.4282, and 608.22 of the regulations of the Administrator, the substance of which is stated below.

Recently, representatives of the Federal Aviation Agency and Department of the Army completed a utilization study of the Eagle River, Alaska, Restricted

Area R-2203. As a result of this study the Department of the Army has advised the Federal Aviation Agency that the lateral and vertical dimensions of R-2203 may be reduced and the remaining special use airspace designated on a joint use basis. Concurrently with the proposal for alteration of R-2203, the Federal Aviation Agency is also considering the realignment of Green Federal airway No. 8 from Anchorage, Alaska, to the Matanuska, Alaska, Intersection, and the extension of Red Federal airway No. 82 from Willow, Alaska, to the Matanuska Intersection.

As presently designated, the Eagle River, Alaska, Restricted Area R-2203 is an area of 77 square miles assigned to the United States Army, Alaska, for artillery and mortar weapons firing. The area is designated for continuous use from the surface to 50,000 feet MSL. Alteration of R-2203 as proposed would return approximately 15 square miles of airspace to public use, reduce the designated altitudes from "surface to 50,000 feet MSL" to "surface to 18,000 feet MSL" and provide for joint use of the area by the designation of the Federal Aviation Agency, Anchorage ARTC Center as controlling agency. Although this modification would result in an overall reduction of restricted airspace, the adjustment of the restricted area boundaries would include approximately 4 square miles of airspace within the confines of R-2203 not previously designated as restricted airspace.

If these actions are taken, the Eagle River, Alaska, Restricted Area R-2203 would be designated as follows:

R-2203 Eagle River, Alaska:

Boundaries. Beginning at latitude 61°-29'00" N., longitude 149°33'48" W.; to latitude 61°22'10" N., longitude 149°33'48" W.; to latitude 61°17'15" N., longitude 149°36'15" W.; to latitude 61°17'15" N., longitude 149°42'25" W.; to latitude 61°19'10" N., longitude 149°46'00" W.; to latitude 61°-21'08" N., longitude 149°44'00" W.; to latitude 61°27'15" N., longitude 149°44'00" W.; to the point of beginning.

Designated altitudes. Surface to 18,000 feet MSL.

Time of designation. Continuous.
Controlling agency. Federal Aviation Agency, Anchorage ARTC Center.

Using agency. Commanding General, U.S. Army Alaska, Fort Richardson, Alaska.

Green Federal airway No. 8 extends in part from the Anchorage, Alaska, radio range station via the intersection of the southeast course of the Skwentna, Alaska, radio range and a line bearing 357° True from the Anchorage radio range station to the intersection of the southeast course of the Skwentna, Alaska, radio range and the northeast course of the Anchorage radio range (Matanuska Intersection). It is proposed to realign this segment of Green 8 from the Anchorage radio range via the northeast course of the Anchorage radio range to the Matanuska Intersection. The portion of this airway which would coincide with the Anchorage, Alaska (Elmendorf AFB) Restricted Area/Military Climb Corridor (R-2201) and the Eagle River Restricted Area (R-2203) would be used only after prior approval is obtained from the appropriate authority. This

realignment would provide more precise navigational guidance for this segment of Green 8 and reduce the overall route mileage between Anchorage and Gulikana. In addition § 601.4018 would be amended to delete the intersection of the southeast course of the Skwentna, Alaska, radio range and a line bearing 357° True from the Anchorage, Alaska, radio range station as a designated reporting point on Green 8. The control areas associated with Green 8 are so designated that they would automatically conform to the altered airway. Accordingly, no amendment relating to such control areas is necessary.

Red Federal airway No. 82 extends from the Skwentna radio range to the intersection of the southeast course of the Skwentna radio range with a line bearing 357° True from the Anchorage radio range. It is proposed to extend Red 82 and its associated control areas via the southeast course of the Skwentna radio range to the Matanuska Intersection at which point they would terminate. This extension of Red 82 would be utilized in conjunction with Blue Federal airway No. 26 as an alternate route between Matanuska Intersection and An-

chorage when the Eagle River Restricted Area R-2203 is being used for its designated purpose. Concurrently with this action the caption to § 1.601.4282 relating to reporting points on Red 82 would be amended to conform to the altered airway.

The vertical extent of the control areas associated with Green 8 and Red 82 would remain as designated pending review of the adjacent airspace. Separate actions will be initiated to implement on an area basis Amendment 60-21 to Part 60 of the Civil Air Regulations.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Regional Manager, Alaskan Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, P.O. Box 440, Anchorage, Alaska. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by con-

tacting the Regional Air Traffic Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room C-226, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Division Chief.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on October 23, 1961.

H. B. HELSTROM,
Acting Chief,
Airspace Utilization Division.

[F.R. Doc. 61-10273; Filed, Oct. 27, 1961;
8:46 a.m.]

Notices

DEPARTMENT OF COMMERCE

Maritime Administration AMERICAN PRESIDENT LINES, LTD.

Notice of Application

Notice is hereby given that American President Lines, Ltd., has applied to amend its Atlantic/Straits service description to read as follows: "Between United States Atlantic ports and California and (1) a port or ports in the Indonesia-Malaya-Singapore area and (2) a port or ports in Japan (via the Panama Canal in each direction), with permissive calls at Marshall Islands, Guam, the Philippines, Hong Kong, China, U.S.S.R. in Asia, Viet Nam, Cambodia, Thailand, Taiwan, Korea, Okinawa, and Canadian Atlantic and St. Lawrence River ports not west of Montreal. Not more than 16 sailings per annum shall carry commercial cargo from California to Guam."

Any person, firm, or corporation having an interest in subject application and desiring a hearing on issues pertinent to section 605(c) of the Merchant Marine Act, 1936, as amended, 46 U.S.C. 1175, should by close of business on November 13, 1961, notify the Secretary, Maritime Subsidy Board, in writing, in triplicate, and file petition for leave to intervene in accordance with the rules of practice and procedure of the Maritime Subsidy Board.

If no request for hearing and petition for leave to intervene is received within the specified time or if the Maritime Subsidy Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board will take such action as may be deemed appropriate.

Dated: October 25, 1961.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Acting Secretary.

[F.R. Doc. 61-10297; Filed, Oct. 27, 1961;
8:48 a.m.]

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 55497]

CHANGES IN RIG CLASSIFICATIONS USED IN DOCUMENTATION OF VESSELS

OCTOBER 24, 1961.

Pursuant to authority of sections 2, 3, and 4 of the Act of July 5, 1884, as amended (46 U.S.C. 2, 3, and 4), the following changes are made in rig classifications as used in the documentation of vessels by adding, eliminating, and

10140

redefining certain rig classifications as described below.

The definition of the rig "barge" is amended to include all nonself-propelled vessels other than houseboats and dredges, thus eliminating the rigs "scow," "canal boat," "catamaran," "schooner barge," and "sloop barge."

The following rigs are eliminated: "Bark," "barkentine," "brig," "brigantine," "catboat," "ketch," "schooner," "ship," "sloop," and "yawl." Vessels formerly classified under the above rigs will be classified under the rig "sail." Vessels presently classified under the rigs "ketch catamaran" and "sloop catamaran" will be classified as "sail catamaran."

The following new rig classifications are added: "Gas screw hydrofoil," "oil screw hydrofoil," and "nuclear steam screw." The abbreviations for these rigs as used in Merchant Vessels will be, respectively, "ga.h.," "ol.h.," and "n.s."

Designations for the rigs thus added, eliminated, or redefined will be changed in the records of the Bureau, in the annual publication "Merchant Vessels of the United States," and on any marine document subsequently issued but no document will be required to be surrendered merely because of such change in rig designation.

Notice of the proposed issuance of the foregoing changes was published in the FEDERAL REGISTER on September 13, 1961 (26 F.R. 8565), pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 1003). No data, views, or arguments relating thereto were received. The changes shall be effective 30 days after the date of publication in the FEDERAL REGISTER.

[SEAL] D. B. STRUBINGER,
Acting Commissioner of Customs.

[F.R. Doc. 61-10295; Filed, Oct. 27, 1961;
8:48 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management IDAHO

Notice of Proposed Withdrawal and Reservation of Lands

OCTOBER 24, 1961.

The Department of the Army has filed an application, Serial Number Idaho 012736 for the withdrawal of the lands described below, from all forms of appropriation under the public lands including the mining and mineral leasing laws. The applicant desires the land for cloud measuring facilities.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Manage-

ment, Department of the Interior, P.O. Box 2237, Boise, Idaho.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

BOISE MERIDIAN, IDAHO

A parcel of land in the north half of Sec. 3, T. 5 S., R. 5 E., said parcel being a strip 45.00 feet wide, 5.00 feet on the right and 40.00 feet on the left of the following described centerline:

Beginning at a point on the north line of said section 3, said point being easterly 500 feet from the northwest corner thereof; thence S. 45°00' E., 3,000 feet, more or less; thence N. 45°00' E., 750 feet, more or less to the center of the projector facility; thence S. 75°00' E., 400 feet, to a point being the center of the detector facility on the extended centerline of the NW-SE Runway No. 12-30, said point being S. 45°00' E., 4,530 feet from the southeasterly end, of said Runway; thence S. 75°00' E., 59.00 feet to the terminal point of this description.

Totaling 4.35 acres, more or less.

JOE T. FALLINI,
State Director.

[F.R. Doc. 61-10277; Filed, Oct. 27, 1961;
8:46 a.m.]

Office of the Secretary

[Order 2859]

SUPERINTENDENT, SAN JUAN NATIONAL HISTORIC SITE

Delegation of Authority To Convey to the Municipality of San Juan, Puerto Rico, a Certain Tract of Land

OCTOBER 20, 1961.

Delegation. The Superintendent of the San Juan National Historic Site is authorized to exercise all of the authority of the Secretary under the act of August 24, 1959 (73 Stat. 414), with respect to the conveyance to the Municipality of San Juan, Puerto Rico, of that certain tract of land described in the act.

JAMES K. CARR,
Acting Secretary of the Interior.

[F.R. Doc. 61-10278; Filed, Oct. 27, 1961;
8:46 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 13101]

CATALINA ISLAND SERVICE INVESTIGATION

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled investigation is assigned to be held on

November 7, 1961 at 10 a.m., e.s.t., in Room 911, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Herbert K. Bryan.

Dated at Washington, D.C., October 25, 1961.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 61-10292; Filed, Oct. 27, 1961;
8:48 a.m.]

[Dockets 13063, 13066; Order E-17620]

MILITARY EXEMPTIONS

Order Granting Exemptions

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 24th day of October 1961.

By Order E-15824, adopted September 26, 1960 (Dockets 11676, 11731, 11755, and 11798), the Board, inter alia: (1) extended until September 30, 1961 the effectiveness of § 207.11 of the Economic Regulations to the extent necessary to make the limitations of §§ 207.5 to 207.10 inapplicable to those operations designated as "Commercial Air Movements" (CAM) and "Commercial Air" (CA), and performed pursuant to contracts with the Military Traffic Management Agency (MTMA), and (2) extended until September 30, 1961 an exemption from section 401 of the Act and from the terms of the various operating authorizations to permit each certificated air carrier and each air carrier holding economic authority of the supplemental or large irregular type to engage in interstate and overseas air transportation pursuant to contracts with MTMA under CAM or CA movements.¹ The carriers possess basic operating authority to perform certain of these CAM and CA services, but many of them could not perform all of them without this additional authority.

On September 27, 1961, the Flying Tiger Line Inc. (FTL) filed with the Board an application (Docket 13063) seeking a one-year extension of the effectiveness of ordering paragraphs 2 and 3 of Order E-15824. In support of its application, FTL alleges, inter alia, that the circumstances which warranted the previous grant of this authority, insofar as applicable to FTL, continue and will continue to exist; that the CAM and CA movements involve charters of passengers and cargo of a sporadic and unpredictable nature; and that FTL, if and when awarded a contract for such services, would not be able to process a certificate application in time to perform these services.

On September 28, 1961, Riddle Airlines, Inc. (Riddle) filed an application (Docket 13066) seeking extension until September 30, 1962, or to such other date as the Board may set, of the exemptions granted in Order E-15824 insofar as necessary to allow Riddle to continue

performing interstate and overseas air transportation pursuant to contracts with MTMA under CAM and CA movements. In support of its application, Riddle alleges, inter alia, that its authority under its certificate is not broad enough to cover all the requirements of the military under CAM and CA contracts; that military procurement policies do not allow time for processing certificate applications for such services; and that the nature and amount of such services would not justify the expense to the carrier of a certification proceeding.

No objections to the grant of these applications have been filed.

The Board has carefully considered these applications and has decided to reissue the authority in question for a period expiring September 30, 1963.² It appears that there is a continuing need for this authority which may be intensified by expansion of military activities. As noted in Order E-15824, under the policies of the Military Establishment in procuring airlift for CAM and CA movements, the recipient of a contract for such services, if not already authorized to perform them under its basic operating authority, would not be able to process a certificate application in time to perform them. Further, the expense of a certificate proceeding in some instances would be out of all proportion to the value of the service from the carrier's standpoint. In view of the foregoing, the Board finds that enforcement of the provisions of section 401 and applicable Board regulations, insofar as they would prevent each air carrier from performing CAM and CA movements under contract with MTMA, would be an undue burden on such carrier by reason of the unusual circumstances affecting its operations and would not be in the public interest: *Accordingly, it is ordered:*

1. That each certificated air carrier (other than Alaskan air carriers and supplemental air carriers) be and hereby is exempted from the provisions of §§ 207.5 to 207.10 of the Economic Regulations insofar as they would otherwise prevent such carrier from performing charter trips in CAM and CA movements pursuant to contracts with MTMA;

2. That each certificated air carrier and each air carrier holding economic authority as a large irregular carrier, irregular transport carrier, supplemental air carrier, and/or other classification established by Board decision in Docket 5132, et al., be and hereby is exempted from the provisions of section 401 of the Act and the terms of its outstanding operating authorizations insofar as they would otherwise prevent such carrier from engaging in interstate and overseas air transportation pursuant

² The reissuance of authority, insofar as it concerns Part 207 of the Economic Regulations, will take the form of an exemption from §§ 207.5-207.10 in lieu of extension of the effectiveness of § 207.11, the latter having expired September 30, 1961.

to contracts with MTMA, under CAM or CA movements;

3. That the authorization granted by paragraphs 1 and 2 above shall continue in effect up to and including September 30, 1963;

4. That this order may be amended or revoked at any time in the discretion of the Board without hearing.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 61-10293; Filed, Oct. 27, 1961;
8:48 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File Nos. 2-12660 (22-1811), 2-15984
(22-2719)]

GENERAL ACCEPTANCE CORP.

Notice of Application and Opportunity for Hearing

OCTOBER 23, 1961.

Notice is hereby given that General Acceptance Corporation (the Applicant) has filed an application pursuant to clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (hereinafter referred to as the Act) for a finding by the Commission that the trusteeship of Manufacturers Hanover Trust Company (Manufacturers Hanover) under the two indentures hereinafter described is not so likely to involve a material conflict of interest under the Act as to make it necessary in the public interest or for the protection of investors to disqualify Manufacturers Hanover from acting as trustee under both indentures.

Section 310(b) of the Act provides, in part, that if an indenture trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined therein) it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of this section provides, with certain exceptions stated therein, that a trustee is deemed to have a conflicting interest if it is acting as trustee under a qualified indenture and is trustee under another indenture of the same obligor. However, an issuer may sustain the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under a qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either or both of such indentures.

Applicant alleges that:

1. It has outstanding the following two issues of unsecured debentures:

(a) \$10,000,000 principal amount of its 4¾ percent Senior Debentures due August 1, 1971 issued under an Indenture dated as of August 1, 1956 (the 1956 In-

¹ The pertinent ordering paragraphs of Order E-15824 are Nos. 2 and 3, respectively.

NOTICES

[File No. 24B-1147]

VULCATRON CORP.

Order Temporarily Suspending Exemption, Statement of Reasons Therefore, and Notice of Opportunity for Hearing

OCTOBER 24, 1961.

denture) to the Hanover Bank (Hanover), a corporation organized and formerly existing under the laws of the State of New York, as Trustee. These debentures were registered under the Securities Act of 1933, and the 1956 Indenture was qualified under the Act.

(b) \$15,000,000 principal amount of its 6 percent Senior Debenture due January 1, 1980 issued under an Indenture dated as of January 1, 1960 (the 1960 Indenture) to Manufacturers Trust Company (Manufacturers), a corporation organized and existing under the laws of the State of New York as Trustee. These debentures were registered under the Securities Act of 1933 and the 1960 Indenture was qualified under the Act.

2. Hanover was duly merged into Manufacturers under the name Manufacturers Hanover Trust Company pursuant to a Plan of Merger which became effective at the close of business on September 8, 1961. As a result Manufacturers Hanover has succeeded to the trusteeships of Hanover and Manufacturers under the aforementioned two Indentures.

3. The 1956 Indenture and the 1960 Indenture are wholly unsecured. The applicant is not in default under either Indenture.

4. Except for variation in amounts; dates, interest rates, redemption prices, the dates on which debentures may be called for redemption, and the operative date of the sinking fund requirement of each of the Indentures, these two Indentures contain substantially the same provisions. Any difference in their provision is unlikely to cause a conflict of interest in the trusteeship of Manufacturers Hanover under either of said two Indentures.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the offices of the Commission at 425 Second Street NW., Washington, D.C.

Notice is further given that an order granting the application may be issued by the Commission at any time on or after November 16, 1961, unless prior thereto a hearing upon the application is ordered by the Commission, as provided in clause (ii) of section 310(b) (1) of the Trust Indenture Act of 1939. Any interested person may, not later than November 14, 1961, at 5:30 p.m. e.s.t., in writing, submit to the Commission, his views or any additional facts bearing upon this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D.C., and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert.

By the Commission.

[SEAL]

ORVAL L. DuBois,
Secretary.

[F.R. Doc. 61-10281; Filed, Oct. 27, 1961;
8:47 a.m.]

I. The Vulcatron Corporation (issuer), a New Hampshire corporation, Farmington, New Hampshire, filed with the Commission on March 11, 1960, a notification on Form 1-A and an offering circular relating to a proposed public offering of 100,000 shares of common stock at \$3 per share for an aggregate amount of \$300,000, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3(b) and Regulation A promulgated thereunder. The shares were to be offered through the underwriter, P. deRensis & Co., Inc., 75 State Street, Boston, Mass., on a best-efforts basis.

II. The Commission has reasonable cause to believe that:

A. The terms and conditions of Regulation A were not complied with, in that:

1. The issuer failed to meet the requirements of Rule 253 in that securities held by controlling persons were transferred in violation of the escrow requirements of that rule; and

2. The issuer filed false and misleading reports of sales on Form 2-A, particularly with respect to the representation that 25,000 shares had been sold and that \$75,000 had been received from the public.

3. The issuer failed to furnish the offering circular required by Rule 256 to purchasers of approximately 2,500 shares of the issuer's common stock.

B. Regulation A is unavailable to the issuer in that the aggregate amount of the securities offered to the public, computed in accordance with Rules 253 and 254, exceeds \$300,000.

C. The offering circular contains untrue statements of material fact and omits to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, particularly with respect to:

1. The failure to disclose adequately and accurately the security holdings of the officers and directors;

2. The failure to disclose the names and addresses of two new directors, and the security holdings of such directors;

3. The failure to disclose an agreement by the original officers and directors to dispose of portions of their preferred and common shares to two new directors;

4. The statement that funds received from the subscribers would be segregated by the underwriter in a separate bank account maintained for that purpose;

5. The statement that the funds received from subscribers would be returned if the offering was not completed before October 10, 1960;

6. The statement that if a minimum of 25,000 shares was not sold on or before October 10, 1960, the offering would be withdrawn.

D. The offering was made in violation of section 17(a) of the Securities Act as amended.

III. It is ordered, Pursuant to Rule 261(a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption under Regulation A be, and it hereby is, temporarily suspended.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for a hearing within thirty days after the entry of this order; that within twenty days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; that if no hearing is requested and none is ordered by the Commission, this order shall become permanent on the thirtieth day after its entry and shall remain in effect unless or until it is modified or vacated by the Commission; and that notice of the time and place for any hearing will be promptly given by the Commission.

By the Commission.

[SEAL]

ORVAL L. DuBois,
Secretary.

[F.R. Doc. 61-10282; Filed, Oct. 27, 1961;
8:47 a.m.]

GENERAL SERVICES ADMINISTRATION

SHELLAC HELD IN NATIONAL STOCKPILE

Proposed Disposition

Pursuant to the provisions of section 3(e) of the Strategic and Critical Materials Stock Piling Act, 50 U.S.C. 98b(e), notice is hereby given of a proposed disposition of approximately 10,655,418 pounds of shellac now held in the national stockpile.

The Office of Emergency Planning has made a revised determination, pursuant to section 2(a) of the Strategic and Critical Materials Stock Piling Act, that said 10,655,418 pounds of shellac are no longer needed for stockpiling. The revised determination was based upon a finding of the Office of Emergency Planning that said 10,655,418 pounds of shellac are obsolescent for use in time of war because of deterioration, the development and availability of substitutes, and technological improvements.

General Services Administration proposes to transfer to Federal agencies such quantities of the shellac as may be required by such agencies, to offer it for sale on a competitive basis, or otherwise to dispose of it in the best interest of the Government. The shellac will become available for transfer or sale beginning six months after the date of publication of this notice in the FEDERAL

REGISTER. The first offering for sale will be of approximately 550,000 pounds. Additional quantities will thereafter be offered for sale at intervals of not less than 90 days. The quantity of shellac to be offered for sale will not exceed approximately 2,175,000 pounds annually.

This plan and the dates of disposition have been fixed with due regard to the protection of producers, processors, and consumers against avoidable disruption of their usual markets as well as the protection of the United States against avoidable loss on disposal.

Dated: October 23, 1961.

JOHN L. MOORE,
Administrator.

[F.R. Doc. 61-10289; Filed, Oct. 27, 1961;
8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 560]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 25, 1961.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 64447. By order of October 20, 1961, the Transfer Board approved the transfer to Delaware Interstate Express Co., a corporation, Philadelphia, Pa., of Certificates in Nos. MC 111316 and MC 111316 Sub 1, issued Feb-

ruary 10, 1950, and June 20, 1955, respectively, to John F. Holland, Inc., Ocean City, N.J., authorizing the transportation of: Groceries, rejected shipments of groceries, petroleum products in containers, and general commodities, with the usual exceptions including household goods and commodities in bulk, from, to, or between specified points in New Jersey, Delaware, and Pennsylvania. Morris J. Winokur, 1920—Two Penn Center Plaza, Philadelphia 2, Pa., attorney for applicants.

No. MC-FC 64537. By order of October 19, 1961, the Transfer Board approved the transfer to Frey's Motor Express, Inc., Phillipsburg, N.J., of Certificate No. MC 64423 issued May 27, 1942, to Earl S. Frey, doing business as Frey's Motor Express, Phillipsburg, N.J., authorizing the transportation over regular routes of general commodities, excluding household goods and commodities in bulk, between Allentown, Pa., and New York, N.Y.; between Allentown, Pa., and Camden, N.J.; between Phillipsburg, N.J., and Camden, N.J.; between Phillipsburg, N.J., and Sussex, N.J. Service is authorized to all intermediate points and to specified off-route points. William J. Wilcox, 624 Commonwealth Building, Allentown, Pa., attorney for applicants.

No. MC-FC 64538. By order of October 20, 1961, the Transfer Board approved the transfer to People's Transfer, Inc., Montebello, Calif., of Certificate No. MC 117012, issued February 25, 1958, to J. D. Roach and Tom Roach, a partnership, doing business as Roach Transportation, Los Angeles, Calif., authorizing the transportation of: General commodities, excluding household goods, commodities in bulk, and other specified commodities, between points in Los Angeles Harbor, Calif., Commercial Zone, as defined by the Commission, and the Los Angeles, Calif., Commercial Zone, as defined by the Commission; and between points in the Los Angeles, Calif., Commercial Zone, as defined by the Commission, on the one hand, and, on the other, points in the Los Angeles Harbor, Calif., Commercial Zone, as defined by the Commission. Ivan McWhinney, 639 Spring Street, Los Angeles, Calif., attorney for applicants.

No. MC-FC 64540. By order of October 19, 1961, the Transfer Board approved the transfer to Samuel Maidenbaum, Inc., Brooklyn, N.Y., of Certificate No. MC 117798, issued October 10, 1960, to Samuel Maidenbaum, Brooklyn, N.Y., authorizing the transportation of: Bananas, from New York, N.Y., Weehawken, N.J., Philadelphia, Pa., Baltimore, Md., and Norfolk, Va., to points in Connecticut, Massachusetts, Maryland, New York, Pennsylvania, Virginia, and the District of Columbia. Herman B. J. Weckstein, 1060 Broad Street, Newark, N.J., attorney for applicants.

No. MC-FC 64542. By order of October 19, 1961, the Transfer Board approved the transfer to M. M. Higginbotham, doing business as Ozark Motor Lines, Memphis, Tenn., of Certificate No. MC 119837, issued June 16, 1961, to Fred Menotti and M. M. Higginbotham, a partnership, doing business as Ozark Motor Lines, Memphis, Tenn., authorizing the transportation of: General commodities, excluding household goods, commodities in bulk, and other specified commodities, between Memphis, Tenn., and West Plains, Mo., serving all intermediate points between Portia, Ark., and West Plains, and serving the off-route point of Alton, Mo., with certain restrictions. Edward G. Grogan, 1500 Commerce Title Building, Memphis 3, Tenn., attorney for applicants.

No. MC-FC 64555. By order of October 20, 1961, the Transfer Board approved the transfer to Delaware Interstate Express Co., a corporation, Philadelphia, Pa., of Certificate No. MC 3896, issued October 25, 1957, to Penn-Jersey Hauling Co., Inc., Philadelphia, Pa., authorizing the transportation of: General commodities, with the usual exceptions including household goods and commodities in bulk, between Philadelphia, Pa., on the one hand, and, on the other, specified points in New Jersey. Morris J. Winokur, 1920—Two Penn Center Plaza, Philadelphia 2, Pa., attorney for applicants.

[SEAL]

HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 61-10290; Filed, Oct. 27, 1961;
8:47 a.m.]

CUMULATIVE CODIFICATION GUIDE—OCTOBER

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